

APPENDIX

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 1975

No. 75 - 804

JOY A. FARMER, Special
Administrator of the Estate
of Richard T. Hill,

Plaintiff-Petitioner,

vs.

UNITED BROTHERHOOD OF
CARPENTERS AND JOINERS
OF AMERICA, LOCAL 25,
et al.,

Defendants-Respondents.

ON WRIT OF CERTIORARI TO THE
CALIFORNIA COURT OF APPEAL
SECOND APPELLATE DISTRICT,
DIVISION FIVE

PETITION FOR CERTIORARI
Filed December 5, 1975

CERTIORARI GRANTED
January 26, 1976

Q For their own personal
they may have been going out to the track the
following day?

A Or they might have been dodging
alimony.

MR. GEFFNER: May we approach the
bench, your Honor?

[RT 1200]

THE COURT: All right. Do you want
the reporter?

MR. GEFFNER: Yes.

(The following proceedings were held
at the bench.)

MR. GEFFNER: Your Honor, what Mr. Hobart has done is selected one month at random out of over a two-year period, of which we have hundreds and hundreds and hundreds of work orders, and the testimony we have to date is that on the dispatch slip that a man is dispatched either by request, either by a man coming in himself, or by the company calling in, or by the company writing in, or by the business agent finding the man a job on a transfer from a company to a jobsite, and sending him down for a request; various ways where a request may be written.

Now, in the absence of any other evidence, for Mr. Hobart simply to put in at random, whatever they are, 22 work referrals, without any showing, any evidence that these men were not requested -- which is his burden to show that they were, then, illegally dispatched, as he puts it, and they were not requested under one of the various systems the witness has testified to, and just simply putting in 22 odd names of carpenters and encumbering the record, confuses the jury, and has absolutely no relevancy to any of the issues in this case.

There is no showing of the illegality of the dispatch procedures in general, or more importantly, and specifically to Mr. Hill. All he's done is pick out names -- that is, a work referral.

[RT 1201]*

where there is no written request,* which is only one of the systems.

I'm not even sure that all of the requests are available. There's other systems of requests, and there's no tie-in with these individuals. Why confuse the jury and encumber the record?

THE COURT: Well, I think it goes to the weight and not the admissibility, so I will receive these particular referral slips.

MR. GEFFNER: Well, your Honor, does that mean that I have to then go in on defense and contact all 15 -- all 22 men and 22 companies and

find out whether they were requested? Because I have to do that to answer this.

THE COURT: I don't think you have to do that. You have the testimony of your dispatchers, such as this gentleman that's on the stand, and we have others as to what the practice was in February of 1968.

MR. GEFFNER: Yes, but, your Honor, without a tie-in, leaving the record the way it is, with the dispatch records in evidence, the only way outside of the testimony of the dispatcher to completely rebut any inference that might be drawn, which I think could be damaging, is to show on each one of those jobs, by either the carpenter or by the superintendent, that he was requested in one form -- which I could do, but that means bringing in 22 different instances as to the fact they were requested.

You know, I can do it. It's just a question of mechanics, and rounding up these carpenters. I assume most of them are available, except the

[RT 1202]*

ones that are dead. The* companies are in business. I can contact all the superintendents and find out if they requested all these men. I feel absolutely certain I can, but it means I have to prolong the trial and bring all these other witnesses, which I feel I would have to do, by bringing in the irrelevant --

THE COURT: Well, I think it is admissible, and we will just have to be confronted with the possibility.

MR. GEFFNER: You are putting me to a tremendous job, and the court, as well.

I can represent to the court these carpenters are available, their superintendents are available, and these were requests, and this means I have to go out through the logistics to satisfactorily answer 22 slips.

THE COURT: Well, these are problems of trial tactics. It doesn't solve my problem on admissibility.

MR. GEFFNER: Okay. Just don't get mad at me, your Honor, when I bring in 22 witnesses and prolong the case for days.

THE COURT: We will have to face it.

[RT 1237]

DIRECT EXAMINATION OF EARL GEORGE DALEY (Resumed)

BY MR. HOBART:

Q Mr. Daley, I believe that in our last session we were beginning to draw your attention to the sheets of March 13, 1967.

Can you tell me what page Mr. Hill is on, and what line?

A He's on page 3, and one, two, three, four -- line 5.

Q And for the preceding week he was

[RT 1238]*

on page 3 at* line what?

A Line 7.

Q Now, inasmuch as we don't have any records for that period of time, Mr. Daley, could you give us an explanation how a man could spend a week on the sheets, and actually gain but two positions; only two men in front of him get dispatched?

A Sometimes we have a slack period.

Q Well, taking a look at the period of 6-13, we see that that period shows not too much slackness. We see one, two, three, four, five, six, seven, eight, nine -- at least nine dispatches that are shown on these sheets, and you have already told us that a high number of dispatches are not shown on the sheets.

Do you recall in particular whether that period of time was what you call a slow period, or is that just a guess?

A No, I wouldn't recall that particular period.

Q That would be a pretty short move up the list, wouldn't it?

A Not necessarily, not unusual.

Q It is not unusual just to move up two places in a whole week?

A Not unusual.

Q Well, I'll tell you, unfortunately, we don't have records for those periods of time, but we have records for all of 1968.

Can you suggest one time in 1968 when

[RT 1239]*

the same phenomenon occurred?

A I wouldn't --

Q Just one. Just think about it.

A No, sir; no, sir.

Q Well, before you say no, think about it. Maybe you can.

A No, sir, I can't, really.

Q You have never even heard of it before, have you?

A I didn't say I hadn't heard of it, you asked me if I recalled it.

Q Well, then, I'm going to ask you to do it this way. You think for a second, and see if you can try to remember one for all the time in 1968, or the last half of 1967 -- we've got those records, too -- or any part of 1969, where the workingmen on these sheets only moved up two places, a man on the second or third page.

Just take a second and see if you can think of any such period, aside from the strike, we'll say.

A Well, in the back of my mind I know that this has happened, but to specifically point out a certain period, no, sir, Mr. Hobart, I can't do it.

Q Mr. Daley, isn't it true that one of the explanations for that is that dispatches were going out of that office that were not being recorded, that were not being stricken out, and that were not being taken out of order, and that's one of the reasons for the lack of a man moving up in his rightful position?

A I'd like to hear that again.

[RT 1240]

Q Yes, sir. I said, isn't it true that one of the reasons that Mr. Hill and others on that particular occasion, these books of

March 6th, March 13th, Mr. Hill moved up from line 5 to -- or line what? 7, I guess it is, to line 5 -- in a whole week, isn't it because a good number of those dispatches that did go out went out under the table, so to speak?

A To my knowledge, I never knew of one dispatch that went out under the table.

Q Did you ever dispatch a man out in the evening? Did you ever give one man a dispatch in the evening, rather than in the morning?

A Yes, I have.

Q Now, can you tell me if you give as many as 10 men dispatches in the evening?

A Very possible.

Q Now, pursuant to what authority, Mr. Daley, would you give these men these dispatches?

A I wouldn't quote it as authority, but if you have 10 men come in in the evening with requests from a contractor to go to work the proceeding morning, I didn't feel it my duty to penalize them a day's pay by making them wait until in the morning, because they weren't on the books, anyway. They were requests by the company, and transferees, or steady employees of a particular project.

Q Do you recall where you made your notations for those dispatches, so that we would know?

A My notations?

[RT 1241]

Q Yes, where would you make a notation so somebody could check to see if indeed that was a valid dispatch, or whether it was just you playing favoritism?

A Well, there wasn't no set rule for such a procedure, but I felt at the time that if there was a question of it I could fully satisfy anybody that was in doubt, or wanted to find out about it.

Q Mr. Daley, I see our employer requests that we have retained somehow start in July of 1968. Now, that's when you left, isn't it?

A Yes.

Q Would you happen to have any personal knowledge as to where any of the requests for prior to July 1968 are, the ones when you were in office?

A Would I have any knowledge of that?

Q Yes.

A Not after I left the office, sir.

Q You left the office, you didn't make any notes or compilations in order so that you could go out of office knowing what records were there and what records were not there, so that you would know what you could be held accountable for, and so forth?

A I'm afraid I didn't.

Q You wouldn't have copies, or know where copies of any of the work referral slips for, we will say, a period in -- oh, wait a second, maybe we do have them -- yes, we do have some for February 1968.

Mr. Daley, neither you nor I have had a

[RT 1242]*

chance* to do this before, so one of us is going to be surprised.

You indicated to us yesterday there's a whole bunch of these oral requests that somehow don't get the word "Request" written down on them. Now, I've got here in front of me photocopies that I took of the written requests out at Local 25, back in early 1970, late 1969, whenever it was I was out there.

Let's see if you forgot to write down the word "Request" on any of these. Can you tell me who the men requested is on this one up here

you're looking at?

A You asked me if I know the man?

Q You can just read the name, is what I'm asking.

A Oh, yes. Yes.

Q What name can you read?

A Walter Noll.

Q And the date of that dispatch appears to be, at least the date of the request appears to be? What's the date of the request?

A Oh, 2-21-68.

Q Okay. Now here's one that comes as a surprise to me. That one doesn't say request on it, does it, but he was a request, wasn't he?

A Well, as you say, there's no request on that.

Q That's what I say, that's a surprise to me. Let's keep going.

How about Mr. Payne on the 21st?

A Delmar Lloyd Payne on the 21st.

Q Well, Delmar Payne -- well, the
[RT 1243]*

word "Request" shows up on his, doesn't it?

A Yes, sir.

Q All right, let's separate the ones where the word "Request" shows, and the ones where it doesn't.

What does this look like? Does this look like a Mr. Ole Jacobsen? Is that what that looks like to you, the William Simpson Company on the 20th?

A That would appear to be Ole Jacobsen, yes.

Q Let's see if we can find Ole Jacobsen.

Okay, here's Ole Jacobsen, request for the Simpson Company; and does the form say request, or not?

A Request foreman.

Q Okay. At any rate, at least that's not a surprise to me. Let's go on.

I can't read that one, so we'll -- that's a kind of light. Maybe you can see who that's for. If not, we have others we can skip to.

A This is an employer, sir, and this is where the man's name is. There's nothing there.

Q Well, it just didn't come out, so we'll just take the next one.

This looks like Gary -- is that Lohman? -- being requested by somebody or other on the 19th.

A That's what I would make it out as, Gary Lohman; but I don't know who -- what the request is. I can't read the company.

Q Okay. Well, let's just see if we can find that request for Gary Lohman.

[RT, 1244]

What date was that?

A The 19th. Go back to the multiple list, could be on that.

Q To what?

A To the multiple list.

Q Of course, these aren't 100 percent in order, either.

A There it is.

Q There we are; and he does have the word request written on him?

A Yes, sir.

Q Okay, that's another nonsurprise for me, isn't it?

Let's try to Mr. Gilbert on the 19th being requested by the William Simpson Company. Harold Gilbert, is that his name?

A Yes.

Q There we go; is that him?

A Yes.

Q Does the word request appear written on that work referral?

A Yes, sir.

Q All right, let's put it over here, then.

And we have a Robert Bailey being requested to Steelform on, it looks like, the 20th, doesn't it?

A Yes, it seems to be the 20th.

Q Robert Bailey. We'll look for him around that date, anyway.

Ah, here we go. Steelform, right, on

[RT 1245]*

the 20th, * and sure enough, it says, "Request," right on there, doesn't it?

A Yes.

Q And the last one on this one page seems to be a Daniel Martinez Guerrero. Is that how it looks to you?

A Which one, this one here?

Q Yes. I realize that it's hard to read, and if you can't read it, we will skip it. It's on the 19th.

I will take a quick look to see if I see anything.

A It's Guerrero, that's the way I make it out. I'm not sure, it's very faint.

Q All right.

Oh, is this him? Daniel M. Guerrero?

A Seems to me.

Q Again, you dispatched him, and you wrote the word "Request" right on there, didn't you?

410.

A Yes.

Q By the way, you just pick any other date in here, if you want to, Mr. Daley. I assure you, I have just picked them at random. If you'd like to --

A Here's the 19th.

Q Well, I know, but we haven't got to that one yet, have we? I'm talking about going off the request list here.

A This is a request list.

Q All right.

A This has to be a request list.

Q Does it have to be?

A Yes, it is, it's multiply done that

[RT 1246]*

way. It's* a sample of what I told you could happen in the evening.

Q All right. Well, let's hang on to it, maybe we will find it.

This is one of those evening ones, huh?

A Well, it could be. I didn't -- I didn't say that.

Q Okay, let's try January 1 -- I mean, January 5th, Andy Yuhas to Ruane Corporation.

Okay, here's Andy Yuhas requested by the Ruane Corporation, and the word "Request" is on there.

How about a Clarence Kane on February 16th. We'll jump to February the 16th, see if we can find one for him.

There we go, there's his. The word "Request" is written on it for him, too.

Hiroshi -- quite a few fellows on that one. What date is that? -- 29th, Steelform. Let's see if we can find something for 2-29, Kiri, Rodriguez, Guerrero, Steelform, huh?

Did we miss it? Don't let me jump past anything. You just keep an eye on me.

Here we go, that's this one right here, isn't it?

A Yes, sir.

Q And again you have the word "Request" on there.

Have we got ten yet? I didn't want to do this forever, but I would like to get -- yes, we have ten, and we have ten where you have written the word request, that we have taken just at random out of here, and we've got one where you

haven't written the word request on these sheets, Mr. Daley.

[RT 1247]

Okay, is this the next one? I thought that's the one we just had.

A No, there ain't no request on that one.

Q These are different people. You will agree with that, that's not the same?

A No, but it's the same man. He's a foreman.

Q Well, we don't have the request form in front of us, and for the moment, to keep us from going through all of them, we've got one, and I will certainly agree with you that there could have been more than one in the history of your dispatching procedure, Mr. Daley.

But the point I'm making is this, when you have a written request, that is, a request where you've got physical evidence that the man was requested in case anybody would ever be critical of you, you write the word "Request" on here.

Based on the 10 we took at random, you wrote that word request 90 percent of the time, 9 to 1, and yet yesterday you went through stacks for one period in the month of February in 1968, and when the work request didn't appear there,

you said, well, that's probably a telephone request.

Mr. Daley, would you tell me what it is; what is the significance, or what is the difference, giving yourself any latitude to come up with anything you like, as to why you would write the word request when you have physical evidence of the request, and yet when you claim to have some sort of a telephone request for a man, you don't bother to write that down on his work dispatch sheet?

[RT 1248]

A You emphasized telephone requests. If I remember right, I said it could be telephone requests, could be one of a number of reasons.

Q That wasn't my question, Mr. Daley. My question was, why do you write the word request down when you have written evidence of a request in front of you, proof of it, and why do you not write the word request down when you claim it is an oral request?

MR. GEFFNER: Your Honor, I'd object. This question has been asked and answered, to my recollection, at least four times last week, and Mr. Daley has testified as to his practice in terms of writing down request, or not writing down request, depending on whether he happened to write it down or not, and Mr. Hobart is simply arguing with the witness at this point.

MR. HOBART: Your Honor, I'm not trying to argue. I think it is a very crucial point.

THE COURT: Yes, we will see if we can produce an answer, and if not, well, go on to another subject.

BY MR. HOBART: Do you have any more of an answer than you have already given?

A I'm afraid you will have to start again, sir.

Q Mr. Daley, as we have shown, approximately 90 percent of the time when you have a written request you physically write the word "Request" or the initials "req" or at least on 90 percent of the work referrals that went out of that office.

Now, yesterday you tell us that when you
[RT 1249]*

get an* oral request, or something over the telephone, or when a man comes in and says, "Hey, I worked there before," you don't write the word "Request" down on that dispatch, and I'd like to know why, on the one hand when you have proof of the request, you do write it down, and when you have an oral request in which there is no proof, you don't write it down.

MR. GEFFNER: Your Honor, that was not Mr. Daley's testimony. I object on the grounds he is stating answers in his question, that it is not Mr. Daley's answers.

THE COURT: Well, I think Mr. Daley can answer the question, and point out any discrepancies between the question and what his testimony has been.

Go ahead.

THE WITNESS: As I've stated before, there's any number of reasons, to particularly enumerate it now; but one of them is what I just brought out this morning, that eight or ten men, or one man with eight or ten cards, could come to the hall in the evening and request a job clearance where they had to go to work someplace far away in the morning at 7:30, before we open the hall; so I felt it my duty to see that these men had their request to go to work, so I would write them out either singly, or if I was in a hurry, with a multiple list.

So It's entirely possible that I wouldn't put the word "Request" down on this particular thing. It could have been a job clearance.

Q BY MR. HOBART: What do you mean, it could have been a job clearance?

[RT 1250]

A In other words, it could be a new job starting up, and the man came in under the rules of his union to clear himself for this particular job.

Q Men can't come in just because a job is starting up and say, "Hey, Mr. Daley, there's a job starting up. I want clearance to go on that job"?

A He doesn't say it that way, sir. He comes in and requests a clearance, and proves himself an employee of the job address that he has pointed out, and then it is my business to know that this job is there, and it has or will be started.

MR. HOBART: May I have that answer read back, your Honor?

THE COURT: Very well.

(Answer read.)

Q BY MR. HOBART: How does he prove himself an employee of that job, Mr. Daley?

A By showing a check stub of a reasonable length, like a couple of days before, a week before.

Q What happens if the job is just starting, and he hasn't had a chance to?

A As I say, he's a regular employee, and therefore, he's entitled to come in and demand a request clearance.

Q Say that again.

A He's a regular employee, and therefore, he's entitled to come in for a job clearance to another project.

Q If he is a regular employee, he doesn't have to come back to you for anything --

[RT 1251]

A Yes, sir.

Q Once he's been out to that job, signed out there validly, he's got to keep coming back to the hall?

A Again, you twisted my words.

I said he's a regular employee of the company, and therefore, entitled to a job clearance to start a new project.

Q All right. Mr. Daley, I know that a man who is a regular employee of the company, as well as a man who is not in the regular employ of a company, has a right to be requested; is that right?

A Yes, sir.

Q Now, once a job is started up, no man has a right to come to you and say, "Hey, Simpson's got a building going over there. I worked for Simpson before. I am a request. Please send me out a request slip, or a dispatch slip"?

A I'm afraid you're putting it absolutely wrong, sir.

Q You mean to say they can do that?

A Not the way you say it.

Q Well, I put it in the negative, Mr. Daley.

A Well, I'm afraid it creates -- I can't answer it the way you say it, because it's a wrong impression in my mind.

If a man is a regular employee he's entitled to be transferred from one job to the other.

Q If he's a regular employee for Mr. Simpson?

A Yes, sir.

[RT 1252]

Q And if Mr. Simpson asks him to be transferred; right?

A Yes.

Q All right. Now, let's look at that man. Let's forget all about anybody who's got any present connection with the Simpson Company all right? Let's just get down to Joe Blow, who's sitting on these books hoping he's going to get a fair shake. Let's talk about him.

Now, the man who is on page 11 of these sheets, does he have any right to come to you and say, "Well, Mr. Daley, Simpson Company is out here starting a building. I have worked for them before. They want me again. Here's my check stub to show I worked for them a year and a half ago. Please send me out with a dispatch slip"?

A I'm afraid the way you put it, it couldn't be done that way.

Q First off, if you did it that way, it would be a violation, wouldn't it?

A Wouldn't be no violation, because it wouldn't be honored.

Q I take it, then, if it had been honored, it would be a violation?

A It wouldn't have been honored.

Q Well, Mr. Daley, we have gone through numerous people in February of 1968 who were dispatched from the bottom of the list, and from elsewhere, not even on the list, so when you

say it never happens, I assume that is a bit argumentative.

[RT 1253]

A I didn't say it never happened, I said we wouldn't honor such a thing if it came to our attention.

Q My last question to you on this area, Mr. Daley, is simply, do you have any explanation for writing the word "Request" on these work referrals that we have gone through this morning about 90 percent of the time, and yet on those dispatches of people who were taken off the back of the list, and people who weren't even on the list that we went through last Thursday, for during the month of February 1968, you don't write the word "Request" at all, or -- well, stop right there -- many on which you didn't write the word "Request" at all, yet you claim a request.

Is there some reason that you can think of that you didn't write some explanatory note on those people's sheets, as you do on the sheets of the people who get these legitimate requests?

A There's no law, or no written law, or no rule that requires the word "Request" to be written on a work referral. It's not that important.

MR. HOBART: Your Honor, I'd ask that these 10 work referrals that I just went

through the list with to show that the word "Request" is written on approximately 90 percent of the time, be admitted collectively as plaintiff's next in order.

THE COURT: All right, that will be 55.

Q BY MR. HOBART: Mr. Daley, directing your attention to the out-of-work sheets of 3-20-1967, page 2, Mr. Hill is on line 14; is that right?

[RT 1254]

A I would --

THE COURT: What page?

MR. HOBART: Page 2, line 14.

THE COURT: Without counting them, I will take your word for it.

Q BY MR. HOBART: Now, the following week, Mr. Hill, that's on the sheets of 3-27, Mr. Hill is on page 2, line 15.

Would you agree with me that it is counter not only to the flow of water, but to the nature of that out-of-work list, for a man to go backwards on that list?

A I would not agree with you.

Q Skipping where it's not contrary to nature for water to go backwards --

A I didn't say that.

Q I say skipping that part, tell us why it would be a natural phenomenon for a man to wait a week and slide back a notch on those out-of-work lists if all of the dispatches are being properly registered and done according to the rules of the dispatch procedures.

A It's possible that a man was put back on the list because of reasons -- legitimate reasons.

Q I see. Like a pickup?

A Possibly. That's one of the reasons.

Q Do you see anybody marked "Pickup" on there anywhere?

A No, sir, I didn't check for that.

Q Well, take a second and check it.

A Well, it wouldn't be no use in

[RT 1255]*

checking it, * because it wasn't always written there in the first place.

Q I see. Anything other than that; any other reasons besides a possible pickup?

A Well, he could legitimately be somewhere on a court appearance, or he could have been -- anything that would keep him from coming there at the hall and having his name on the week before.

Q Then he'd come in and slip his name back in?

A Not slip his name back in.

Q No, I didn't mean slip it -- well --

A He's legitimately entitled to his position.

Q If a guy goes to the courthouse, subpoenaed into court here, he shouldn't have to lose his position, is what you're saying?

A No, this is true.

Q Yes, but who -- okay, let's assume a man is subpoenaed into court here today, you know, one of the carpenters as a witness in our case, and he's not there on Monday morning, this morning, to sign that book in. Why wouldn't it be a violation of all the rules to have one of the business agents write his name in for him when he had to be here in court?

A I don't think any business agent would write his name in. I don't recall ever doing it.

Q What would happen to the man? He'd have to lose his place, wouldn't he?

A No, I don't think that doing his duty to appear in court would entitle him to be punished.

[RT 1256]

Q How would he get his name in his place, then?

A He would come up and legitimately explain what happened to him.

Now, are we going to dispute the law of the land, say, "You be here, the hell with the court"?

Q I think you've got a real good point there.

Mr. Daley, I'm showing you a copy of one of the white slips for the month of -- from the month of February, dated February 6, 1968, apparently taken at 11:00 a.m., someone whose initials are E. F. That would be Evelyn Folick, wouldn't it?

A I would assume so, yes, sir.

Q All right. Then can you tell me basically what that white slip is asking for?

A Well, this is a request for several men by the City.

Q A telephone work order from a contractor, the City, saying "Send us out some carpenters," and they have requested over the telephone that a certain three or four of them be sent out; is that the idea?

A I would have to screen them.

Q Yes, but that's basically what they have asked for?

A I would still have to screen them.

Q You have to answer "Yes" to the question, or "No" to the question, and then say that.

A Okay, repeat your question.

Q Basically, they are asking you to

[RT 1257]*

send out certain* designated men?

A They stipulate what they want.

Q Well, in law it takes two to stipulate, like to tango, Mr. Daley.

A I have to do what the City says. They tell me, they stipulate what they want.

Q That's right, they give you the names of the men they want?

A No, sir.

Q What names appear there?

A These names, James Payne, Austin Solis, George Solis, if available, which I assume that they had worked for the City before. I would assume that.

Q Right. Wouldn't you also assume that somebody from the City got on the telephone and talked to Mrs. Folick and said, "Mrs. Folick, we need four men, and if these four are available, would you send them out to us on the job, and today's the day, and send out these four people," and named the men?

A This could be possible if they had worked for them before.

Q And you say now you'd have to screen these men?

A Would have to screen anybody going for this particular job, if they hadn't been requested by name.

Q But in this case they had been requested by name.

A So I would assume they had worked for the City before.

Q All right. So, in other words,

[RT 1258]*

it's just on the* telephone requests, is what this is?

A No, not really.

Q This is not a telephone request?

A This is, in all probability, a telephone request.

Q Is an improbability?

A It is, in all probability, a telephone request.

Q I'm sorry, I thought that's what you said.

I'm going to tear off my little handwritten note at the bottom, Mr. Daley. You will be the witness to that's all I am tearing off there; all right?

A I'm afraid my word wouldn't be good. You have to talk to the jury.

Q It would be good for that, Mr. Daley.

Your Honor, may I offer that that be accepted as plaintiff's next in order -- I'll tell you what I will do, I will let you even hang on to that.

THE COURT: That will be 56.

Q BY MR. HOBART: Mr. Daley, there's nothing like getting egg caught on your face by not checking out anything before, but I'm going to gamble.

Mr. Daley, I'd like to direct your attention to the out-of-work sheets of February 19, 1968, and let's locate the name of Richard T. Hill.

Here we go. We see him on page 4, line 2; is that right?

A That's right -- page 4 -- I mean, page 4, line 2, that's right.

Q Now look on that page and the next [RT 1259]*

page as well, * and tell me if you see the name of Marion Chavez, the fellow we referred to yesterday as being one of your constant stewards.

A I don't even recall the name Marion Chavez, let alone a constant steward.

Q You don't remember Mr. Marion Chavez?

A Not that I recall, no. No, I don't recall the man at this point, at this moment.

Q Well, maybe he's a stranger to you.

A I wouldn't say that, I just say I don't recall him.

Q Have you been having any memory problems in the last few years?

A I would -- possibly.

Q Okay.

Let me show you what his health and welfare record looks like. See, it says "Mario" here, but his name is Marion. I think that could be just a mistake, but you may know him as Mario.

A I may know the gentleman if I see him by sight, but the name means nothing to me right now.

Q As you can see here, he worked a fair number of hours, didn't he, right along, during your administration?

A Well, I'm not familiar with these sheets, so I can't --

Q Okay. Well, I won't argue with that.

At any rate, you saw Richard Hill here on page 4, line 2, and did you see Marion Chavez anywhere on pages 4 and 5?

[RT 1260]

A Couldn't find such a name.

Q Okay, let's see if you can see him on page 3 anywhere.

A No, sir.

Q How about page 2?

You don't see him there?

A No.

Q Then page 1. I don't suspect we will see him there, either, but we will just look, nevertheless.

I don't see him there, do you?

A No, sir.

Q All right. Now, let's take a look at the next week's sheets. That would be February 26th.

Now, let's find Richard T. Hill again, and if we find Richard T. Hill, we can find him on page 3, now, at line 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 -- 13; right?

A Yes, sir.

Q Now, who do you think we see up here at line 4 on that page?

A We see a Chavez; a M. Chavez.

Q That's right. Do you know of any other M. Chavez besides this fellow?

A I don't know this Chavez.

MR. HOBART: Your Honor, I'm just curious if I can find those other sheets to see how this man's name is written. I think we looked at the two other sheets before, but I can't remember what dates they were in. I wonder if your Honor would have that information, by any chance?

[RT 1261]

Remember, we passed it to the jury, where I asked them to compare two signatures to see if M. Chavez had the same signature. Now, dad-gummit, if I can remember which two pages it was.

THE COURT: Well, maybe we'd better take our morning recess for 10 minutes and see what you can find.

MR. HOBART: Thank you, your Honor.

THE COURT: The jury is given the customary instruction.

(Recess.)

Q BY MR. HOBART: Well, Mr. Daley, back to the books, as they say.

As I recall, we had just discovered that Dick Hill was on page 4, line 2 of the 2-19-68 sheets, and then we went to the 2-26 sheets -- and by the way, on the 2-19 sheets we didn't find the name of Mr. Chavez anywhere, to the best of our collective ability; is that correct?

A That's right.

Q All right.

Then on the next week's sheets, February 26, 1968, we have Mr. Hill down here on page 3, I think I said around line 11, 12, or 13 --

THE COURT: You said line 13 last time.

MR. HOBART: Thank you, your Honor.

Q Now, if you count down 1, 2, 3, 4, 5, 6, 7, 8 -- eight lines above Mr. Hill's name, now who do we find mysteriously appearing?

A Looks like M. Chavez.

Q. Indeed it does.

[RT 1262]

Now, these sheets are made every morning, and then they are left open during the week for people to sign as they may terminate another employment during the week, or otherwise become available for registering for work; is that right?

A They are left available for everybody.

Q Right.

Wouldn't it be a fair presumption to say, at least as to page 3, the first three, four, or five pages, as a rule, they are always completed on Monday morning?

A Usually.

Q Now, isn't it also true it is the responsibility -- I know this is redundant, and I know you already said "Yes" to this once -- but isn't it the responsibility of the business agent to insure that the sheets are signed in the same order from week to week?

A Now, it's the business agent's responsibility, of course, to see that these work -- out-of-work lists are presented, or written in order; but as far as to insure, there's no way a business agent can insure it.

Q I see. He can make mistakes; that's what you are saying?

A Well, of course.

Q Of course, all right.

At any rate, it is clearly an error for Mr. Chavez to be there, isn't it?

A Apparently, it looks as though it's an error.

Q Now, I show you a photocopy of my

[RT 1263]*

notation, just* to save the time of going through the files there; but you see on February 29th, 1968, Mr. Marion Chavez was dispatched by you to the William Simpson job on 800 West 2nd Street; isn't that right? I can get the original one out --

A No, it shows this is a work referral, and it shows that I evidently dispatched him.

Q Okay. He wasn't a request, was he?

A I have no way of knowing.

Q Well, you didn't write "Request" anyway, did you?

A Certainly didn't.

MR. HOBART: And, your Honor, I do have Mr. Chavez's health and welfare record here, which indicates that he worked for the

William Simpson Company in February 1968, working for them for a total of 16 hours, and ask that that be plaintiff's next in order.

Q Now, Mr. --

THE COURT: Just a minute. That Health and Welfare Trust record for Marion Chavez will be received as exhibit 57.

You say it shows --

MR. HOBART: Yes, your Honor, for February of 1968 it shows 16 hours at Simpson & Company.

THE COURT: Yes.

MR. HOBART: If I may have that back, I may ask another question on it, your Honor.

THE COURT: Yes, that would be No. 57.

MR. HOBART: Thank you, sir.

Q Mr. Daley, aside from just trying to help a friend out and keeping him employed,

[RT 1264]*

can you think of any* reason why a man who had been working regularly -- by regularly I mean the following -- I'll just pick it up, say, October of '67, 154 hours; November, 152 hours; December, 56 hours; January, 99 hours; and

then some other part in February, probably before the 29th, he had worked 72 hours for the Vinnell Company -- is there any reason why you can think of, sir, that a man who has been working this regularly every month would be given a dispatch to the William Simpson job, when apparently others are ready, willing, and able to work?

A I have no explanation at this particular time for what you are saying, any more than I have for his name being on the list.

Q By the way, just so that we know, the dispatch sheet showed that he was dispatched on the 29th of February; is that correct, sir?

A Yes, sir.

Q The health and welfare record indicates that he also worked in March another 24 hours, then sometime in March he transferred over to the R. J. Daum job.

You have no explanation as to why he kept working here and there, and appeared on the list at this time?

A No, sir, I have no explanation whatsoever for that.

Q All right.

Now, we indicated that Mr. Chavez had not been on the February 19th list, but he was

on the February 26th list.

[RT 1265]

Just for fairness, let's just see if he was on the February 12th list, and again, we can use Dick Hill's signature, I suppose, as a starting point, inasmuch as he appeared slightly above Mr. Hill on February 26th.

So here's the February 12th list, and Mr. Hill is on page 4, and going up from there, do you see his name anywhere -- Mr. Chavez's name anywhere?

A No.

Q How about on page 3?

A No, sir.

Q By the way, did you ever knowingly allow any of the Mexican or Mexican-American fellows, such as I see this Robert Lopez, to sign any other person's name, with your permission?

A I wouldn't allow it, no, because to us it was a -- well, it just wasn't done. We didn't allow it whatever, no more than we'd sign the name of a person ourself.

Q All right. Now, I had passed around a document the other day showing Mr. Chavez's name on it, and I thought possibly it was spelled in two different ways, recognizing

it's a close question; but do you see Mr. Chavez's signature on the sheets of 3-18-68?

A Yes, sir.

Q And you see the signature of Mr. Chavez on the sheets of 3-25-68?

A Yes, sir.

Q All right. You can see that there's some difference, but I suppose neither you nor I

[RT 1266]*

are really qualified to give* an expert opinion on it. Would that be fair?

A I would say I'm not qualified, no.

THE COURT: Is that 3-25 or 2-25?

MR. HOBART: 3-25-68, your Honor.

Q And now let's take the sheets that we have just been referring to, the 2-26-68 sheets and let's add that one to it, and now you see Mr. Chavez's signature here?

THE COURT: Page 3, line 4.

MR. HOBART: Yes, your Honor, on page 3, line 4.

Q Do you see his signature there?

A Yes, sir.

Q Wouldn't you agree that there is a gross discrepancy between the last one, the one on 2-26-68 --

A I'm sorry, I can't answer that, either, no more than for this one than I could for that one.

MR. HOBART: Your Honor, I wonder if I could pass these three sheets, just in this order. I can put a red dot on them. I'd like the nature of the signatures to be brought to the jury's attention.

THE COURT: All right, put a red dot on it.

MR. HOBART: Thank you.

THE COURT: Do those exhibits have numbers?

MR. HOBART: I do not believe they are
[RT 1267]*

yet, your Honor,* but I intend to offer them as soon as they are through.

THE COURT: All right.

Q BY MR. HOBART: Mr. Daley, if indeed Mr. Chavez was not entitled to be on

page 2 of those sheets, and got dispatched from those sheets from being that high up, he'd be called a sneak-in, and that would be an illegal dispatch, wouldn't it?

A I would -- I would agree with you that he might be a sneak-in, yes, sir; but not as an illegal dispatch.

Q I see. The sneak-ins can sneak-in, but once they are dispatched, they are not illegal?

A They might be dispatched wrongfully, but not illegally, because if we knew it, we would correct it.

Q Mr. Daley, I'm going to show you a document, and ask you to be kind enough to -- actually, it's a photocopy of two different documents. You can probably tell, can't you?

THE COURT: What is it you want Mr. Daley to identify?

MR. HOBART: Yes.

Q Just tell us what the documents are. Can you identify that document, Mr. Daley?

A Well, I don't recall seeing this particular type of document, but to my mind, it seems like a work request from the company.

Q Okay. Now, that would be a work request from what company?

A R. J. Daum Construction Company.

Q And would you agree with me that [RT 1268]*

that it looks like it* was two different documents, and they have just been photocopied together?

A They would appear to be, except for the names Whiteneck and Buettner -- Butler. There's two different names, sir; Gary Whiteneck and George Butler.

Q What I'm talking about, is that when I photocopied these I took this memorandum, and I took this memorandum, and I put it on one; put it together and photocopied it so it came out one.

In other words, you can tell by looking at it -- you can even see the line across here-- that one time it was two different documents?

A This is what I would say, that it is two different documents, although the same date.

Q Of course.

Let's just label the top one, A, the bottom one, B.

Okay. Now, for document A, document A requests what information; what kind of assistance on what date?

A February 22nd of 1968:

"Please issue a clearance to Gary Whiteneck 2nd per. apprentice to work on Belmont High School, 1575 W. 2nd St."

Signed, "Thank you" -- I believe it's R. W. Alexander.

Q Okay. What did the second document request?

A That is February 26, 1968:

"Subject: Please issue a clearance to George Butler for Belmont High School, 1575 W. 2nd St."

[RT 1269]

Q Those are just two typical requests for the Belmont High School?

A No, sir. This is a completely different document. The first one read for an apprentice.

Q Okay, but it was a request for an apprentice?

A That's right, a second period apprentice.

Q The second document was a request for a carpenter?

A For a carpenter -- I would imagine it's for a carpenter, because it is addressed to Local 25.

Q Okay. I would imagine it is one, too. All right, we will go on from there.

That's Mr. Butler, the second one?

A That's what it appears to be.

Q George Butler, now, on the 26th, did you find there a dispatch for Mr. Butler?

A Yes, sir.

Q And it's indicated on it as a request, is it?

A It is.

Q And here's the request you made out for Mr. Whiteneck; is that correct?

A Yes, sir.

Q So when you got these two requests, these two written requests in, you sent out these two men pursuant to the requests; isn't that fair?

A Yes, that's true; but, again, the word "Request" is something for our personal records, not necessary.

Q I know, but even though it's not necessary, you wrote it down on both of them?

[RT 1270]

A That's right.

W Mr. Wilk did on one and you did on the other?

A Yes.

Q And, again, you had both been dispatching the same morning?

A Right, but the apprentice is not governed by the same rule.

Q I realize that he get a different amount of money --

A No, he's dispatched differently.

Q In other words, there is a written request for him, and you sent him out and wrote the word "Request" on the sheet, and there is a written request for Mr. Butler, and you sent him out and wrote "Request" on the sheet?

A Yes.

Q Now, here in these documents -- remember the documents that we admitted yesterday, the ones that I testified that I had photocopied, and we went through them, and then identified all the requests, and everything?

A Yes.

Q You recall those. Let's see if these two requests show up there.

THE COURT: Is this exhibit 50 you are looking at?

MR. HOBART: Yes, your Honor, I believe it is.

Yes, your Honor, plaintiff's exhibit 50. These would be the employer requests and the white slips, the photocopies taken by me.

Q Now, directing your attention to [RT 1271]*

the third page* of these requests, you notice that under the employer request forms, the request for the R. J. Daum Company that we have just been referring to are not commented on, because they are not on the standard request form, are they? That's a kind of a makeshift?

A The company has either run out of them, or else they used this method to carry on their business.

Q Right. Could even be a "widda" block?

A A widda block?

Q A block of wood. All right, we will get it.

Now, going down the list, we do see that for 2-26, Daum requests two people, Gary Whiteneck and George Butler; right?

A Is this from the company, again?

Q Yes.

A Or did you type this?

Q No, I typed this up, but I typed it after reviewing all of these documents.

A Yes.

Q Okay. You can see this is reflected on here?

A Yes, sir.

Q All right.

Now, I'm going to show you another dispatch made on the same day, in which you dispatched a man by the name of W. O. -- what's his name? Do you recognize that?

A My writing must have been very bad that day. I can't read it.

Q All right. Well, it's W. O., We'll

[RT 1272]*

say Yosthon or* Yosthom. I see an o-s. It looks like a h-o-n, or h-o-m; but at any rate, his initials are W. O.; right?

Is that right?

A Oh, yes, yes.

Q Now, Mr. Daley, you indicated on that same day that we have these two written requests, that this man was a request. It says, "Request, CL"; request clearance.

Now, can you tell me, where did you get that request?

A I'm a little bit confused, but his could be -- this could be a telephone request, or a follow-through request by telephone. But I'm a little bit confused here. Are these the same job?

Q I don't know, you will just have to tell me.

I see there are no written requests.

A I don't know whether these are the same job or not, although they are the same date. One is 1575 West 2nd Street, and this one is Beverly and Loma Linda Drive -- Loma Drive.

THE COURT: Well, I can take judicial notice that they are adjacent.

THE WITNESS: They are very close together.

THE COURT: Yes.

THE WITNESS: Then it would appear they are from the -- oh, well, there's not a request form here, as far as that goes. This is not a request form, this is a job clearance, again.

Mr. Hobart, this is not a request, this

[RT 1273]*

is a job* clearance, and therefore, it indicates a steady employee.

Q BY MR. HOBART: It says "Request" there?

A No, it doesn't, it says job clearance; request clearance.

Q All right.

A Which indicates an employee of steady nature.

Q Well, how does it indicate that, Mr. Daley? On many of your requests you have written "Request clearance."

A Well, that's true.

Q You wrote "Request" in many cases.

A It was my little practice, whenever I thought about it, to clear a man for a job because he was a steady employee; but on a request, there's different problems involved.

Q Mr. Daley, if this man was being requested for this job, to have himself cleared, why wouldn't he just have been included on one of these?

A As I said, he's possibly a steady employee.

Q You raise that as a possibility, but beyond that as a possibility --

A I'm quite sure that that would be the reason.

Q What do you mean, if he was a steady employee?

A In other words, he worked for the company steadily, and that rather than the superintendent or foreman requesting him, he was

really asked to clear for the job, which automatically gave him a work referral.

Q Who asked to have him cleared for the job?

A I wouldn't have any idea who

[RT 1274]*

requested him, but* generally it would be a person in authority.

Q And that person in authority, who writes requests for some of his men, you say doesn't write requests for this one particular person?

A No, I didn't say that, sir. I said if he wrote this here as two requests, which they are, this one here is a clearance request for the employee who is steadily on their payroll, and therefore, he's entitled to a job clearance. In other words, he was transferred from this job to this particular job.

Q Why doesn't it say job transfer or rehire?

A I'm sorry, Mr. Hobart, but, see, it doesn't require you to spend your entire day keeping notes on requests, and all that sort of thing, because I wouldn't be able to get out in the field.

Q A rehire is one of the most common words you have used.

A Yes, but I wouldn't write it.

Q You have written it before.

A Not rehire.

Q Not?

A Not that I know of.

Q What about transfer?

A Never wrote it. That's too long. That's much longer than rehire.

Q Well, okay.

Aside, then, from the one possibility that he was being -- that this was an oral request,

[RT 1275]*

this fellow, you* don't know what the dispatch situation with him was?

A Well, being a clearance, about all that was required of this gentleman to get a work order was a check stub.

Q I gather from what you say these men go around with these check stubs bulging out of their pockets so they can have them handy for

you whenever they get around?

A I wouldn't say bulging, but most of them have a knowledge of what they are required to do, so they have at least a recent check stub in their pocket.

Q Do you recall if he had a recent check stub in his pocket?

A No, sir. No, I wouldn't. I wouldn't recall.

MR. HOBART: Your Honor, I would ask that the two requests of R. J. Daum, and the three dispatches to the R. J. Daum of 2-26-68 be admitted as plaintiff's next in order.

THE COURT: All right, 58.

Do you want to staple them?

MR. HOBART: Yes, I have clipped them, but they probably should be stapled, your Honor.

THE COURT: All right.

MR. HOBART: Next I'd like to introduce your Honor, the out-of-work sheets for April 18, 1968.

THE COURT: April 18th?

MR. HOBART: I'm sorry, we can do this in better order than that. February 26, 1968 --

THE COURT: The first one was February 18th, wasn't it?

MR. HOBART: No.

[RT 1276]

THE COURT: That's the one that doesn't show Mr. Chavez on it. All right.

MR. HOBART: Well, I'm not sure -- yes, Chavez is shown on all three of these.

THE COURT: All right. Which was the first one chronologically?

MR. HOBART: I'll give it to you in chronological order. February 26, 1968; March 18, 1968; and March 25, 1968. I would ask that they collectively, along with that dispatch of Marion Chavez on March 29, 1968, which is appended thereto, be admitted as plaintiff's next in order.

THE COURT: All right, you staple them and --

MR. HOBART: I have a clip on there, your Honor.

THE COURT: I see. All right, this will be 59.

Q BY MR. HOBART: Mr. Daley, when you receive a request, we'll say an oral

request for a man, and that man is not available for one reason or another, is not in the hall when the dispatch goes out in the morning, or he doesn't want the job, or he's ill, or whatever, then if you have to dispatch somebody else -- in other words, if the guy says to you, if the order giver says, "Mr. Daley, tomorrow we need one forms man. Send me Joe Smith, if he's available." Now, if Joe Smith isn't available, then is it within your prerogative to just send him anybody else you want to, or would you have to then revert to the unemployment list?

A Well, it depends upon how the request was worded. In other words, if he wanted a particular man, and this man was not available,

[RT 1277]*

and he didn't request a man in his place* if he was not available, then I had no right to send anybody.

Q Okay. But suppose he gave you a request and said, "Send us Joe Smith if he's available," but leads you to believe if he's not available, then you've got to send somebody, because they've got to hammer in some nails, or something.

A What do you mean by "leads me to believe"?

Q Tells you.

A In other words, a request, and if there is one available, and if he's not, then send him a man, anyway?

Q Right. That's right.

A Under those circumstances I would have to go by the book.

Q All right.

Now, according to the white slips that I copied down at the union hall, you will notice that I made a notation -- which I will find for you in a moment -- June 4, 1968, Austin Company requests a man by the name of Arvin Mayfair. Do you see that?

A I read it, yes, sir.

Q All right. Now, you did send somebody to the Austin Company on 6-4-68, but as you see, you sent Mr. Ed Burge; is that right?

A Right.

Q All Right. Now, my first question is, if you will assume, and I will represent to you, and I am under oath, that I copied down everything that was on the pink slip, if you will assume that

[CT 1278]*

I wrote down everything there on the* white slip,

have everything that appeared on that white slip, wouldn't you say if Mr. Arvin Mayfair had not been available for work it would have been your responsibility to go to the books, the out-of-work sheets, to get the man, or do you feel that you had some other authority to get that man?

A I have to state right now that the job request for this Arvin Mayfair, who I do not know -- you evidently copied it off of the records --

Q That's correct.

A -- and the request for Ed Burge could have been a later development by telephone, or even coming in and -- and with a little business card, stating, "Please clear the bearer for this job."

Q Well, at any rate, among the possibilities, Mr. Daley, one thing is for sure, that you put down there Mr. Burge was a request, and what does the name Anthony DeRoes mean on it?

A It could have been that that was the foreman that requested him.

Q Do you know if it was the same foreman that requested Arvin Mayfair?

A I wouldn't even know if it was the same foreman, or anything; but the only name I'm familiar with in a slight way is Ed Burge,

and Arvin Mayfair I have no knowledge of whatsoever.

I remember Ed Burge, because I think he's a long-time member there, and on the outside of my political fence.

[RT 1279]

Q Would your position be that he had necessarily come from the top of the list, or he may have come from anywhere?

A He didn't necessarily have to be on the list at all.

Q If he was a request?

A Right; or clearance, either one.

Q All right. Now, with respect to the same day you had a request from a Mr. -- or from a company by the name of E. A. Dotter -- and some of my spelling may be wrong, because I couldn't read it sometimes -- but he requested one forms, and then in parens, a man by the name of Carroll Rei. Do you remember Mr. Rei, R-e-i?

A As far as I'm concerned, neither one of these belong to my local. They belong to another local out of there somewhere, so I would have no knowledge of it.

Q Well, he certainly replaced Mr. Mayfair with somebody out of your local?

A No, sir, I said I didn't recall Mr. Mayfair at all. I didn't recall Mr. Rei. I have a slight knowledge of this man Mr. Burge, and that's all.

Q You say Mr. Mayfair is not in your local?

A I wouldn't say that. Not to my knowledge, he's not in my local.

Q And I said you replaced him on that job by someone who was in your local.

A I didn't replace anybody here, Mr. Hobart. In all fairness to everybody, this

[RT 1280]*

man could have been dispatched* or not dispatched, he could have been dispatched and not showed up for the job, or he could have been dispatched and showed up for the job, or he could have been a clearance by Mr. Anthony DeRoes. To go back five years to pinpoint a certain source of information, no; but the only thing I say is if Mr. Arvin wasn't dispatched, he wasn't available. If he was available, he was dispatched.

Q All right.

Now, with respect to this request by Dotter, requesting one forms man, Carroll Rei, now, I couldn't find any dispatch slip for Carroll Rei.

Let me just give it one more look. That was for 6-04?

A Yes.

Q Well, I can't find a dispatch for Mr. Carroll Rei to the Dotter Company, but I can find a dispatch for a Mr. Milton Taylor of Local 25. That's your local, isn't it?

A I believe it is, yes.

Q You sent him out to Dotter as a request.

Now, Mr. Dotter requested Carroll Rei. What gave you the authority to say that this Milton Taylor was a request?

A Well, we're going to have to go back to one of your questions just a few minutes ago, that if this man was requested by name, then if he wasn't available, this particular man, then there could have been a request for Milton Taylor verbally.

Q Don't you think that would have been noted at the same time the original white

[RT 1281]*

slip is made, "Send us Carroll* Rei, or if not available, send us Milton Taylor"? Isn't that the most likely possibility?

A Not really, Mr. Hobart, because as I say, the bookkeeping -- we're just carpenters, we're not bookkeepers, so we would refrain from as much writing as we could.

So this Milton Taylor and Carroll Rei incident, it could have been an oral request, and that Carroll Rei, not being available, the next man, or whoever he is, Taylor, was dispatched by request, as an oral request.

Q Do you have any indication that Mr. Taylor was requested by anybody besides yourself?

A Besides myself?

Q Yes.

A I haven't any indication that any of these gentlemen you've got written down here were requested.

Q You have only my word for it, under oath?

A I have your word for it.

Q And you also have the fact that I have introduced into evidence photocopies of some of the documents?

A True. When I see these, I recognize their legitimacy, yes.

Q They are all from the same source, Mr. Daley.

My point is, Mr. Daley, when you indicate that a man is a request, isn't it true that you have just sent out to work a man that you wanted to send out to work, and since there had been an original request, just mark the next one a request, and that way nobody gets any heat on your back for sending out an illegal dispatch?

[RT 1282]

A That wasn't my procedure.

Q Mr. Daley, you told us that time after time you don't keep this record, and you don't keep that record, because there's no rule, no law requires it, you're carpenters, you're not businessmen, it is unimportant, you don't have to keep records, you throw them away, all this sort of thing, all that sort of thing. Is that basically an accurate statement?

A Inaccurate or accurate?

Q Accurate.

A Well, no, I don't say basically accurate. It's a little bit slanted there, Mr. Hobart. You're playing us out like a villain. I did whatever my job required to be done.

Q Does your job require you to write "request" on any of your request dispatches?

A No, it doesn't require it.

Q You say you do sometimes, and not sometimes?

A Sometimes yes and no.

Q If you don't have to do it at all, why do you do it in some cases?

A It's sort of a little historical date that we keep. If we have to go back a day or two, then it's in the records. Beyond that, no.

Q Isn't the same true if you have an oral request, you should write that down so you can go back?

A In all fairness, I would write down request in all cases, but sometimes I didn't because I didn't think it was necessary, or I forgot it completely.

Q All right.

[RT 1283]

Now, Mr. Daley, from January of 1967 up until the day you stepped out of office, at least one person, and probably more, but at least one person was charging you with constant illegal dispatches, wasn't there?

A There was one person at least, yes, guess so.

Q That person was Richard Hill, wasn't it?

A Constantly.

Q All the time charging you with that?

A Constantly.

Q Did he threaten --

A Socially, constantly. Every time we met, he constantly -- while we were drinking, he constantly accused me of doing things.

Q He would tell you that that dispatch procedure had just become a shambles, a joke, and that it wasn't worthwhile, things of that sort?

A According to Mr. Hill that was his theory and that was his opinion.

Q And he told you he was going to the District Council of Carpenters, and he was going to file charges against you, didn't he?

A I think, if I recall, he was going all over the country to file charges against me.

Q And to your knowledge, he did go to the District Council of Carpenters, and did file charges?

A You say to my knowledge. No, sir, I don't recall it.

Q You don't recall him ever filing [RT 1284]*

charges against* you?

A No, sir. I was never called into the District Council to answer any charges.

Q Did any member of the District Council of Carpenters ever come over and investigate the dispatch procedures?

A I have had the District Council come over and go over them, but as far as -- they'd stand there and watch the dispatch procedure.

Q But as far as an investigation, did they ever do that?

A Not to my knowledge, no.

Q But, in other words, during all of this time, Hill told you he was even going to take you to the NLRB, didn't he?

A I've heard so many things in that vein from Mr. Hill that it's quite possible.

Q And Mr. Hill did, in fact, file charges, and did take you to the NLRB, didn't he?

A That's right.

Q And before the NLRB they went and took a batch of these records, and you had to explain somewhat similarly as you are doing here; isn't that true?

A Somewhat, yes.

Q Now, with all of these charges going on, your reputation at stake, reputation of the union at stake, possibly money of yours and of the union, International Brotherhood at stake, didn't you think, sir, that that was sufficient reason for you to again start making some legible notations and records with respect to your dispatch procedures?

[RT 1285]

A I didn't think so, because there was no base of foundation whatever in any of these charges.

Q The NLRB disagreed with that, didn't it?

A That was the opinion of the NLRB.

Q But you didn't feel that the fact that he had made these charges, and the fact that these charges were going to be reviewed by men of authority, people in authority, you didn't feel that it meant you were going to have to establish certain consistent practice, such as always

writing a request, if it is a request, or never writing it? You didn't change any of your practices?

A My basic practice was always honest, and to change it because of a fallacy and accusations that had no basis of fact in them, that would be against, almost -- against nature.

I trusted my honesty, and I felt that the accusations of Mr. Hill were completely erroneous, and so I felt no alarm about this -- not too much alarm, anyway.

Q Mr. Daley, not to actually subject ourselves to it, because it would be time-consuming, but let me just ask you to pick out a month, just any month -- what's the month of your birthday, or wife's birthday, or something.

A Let me check. I think it's July.

Q All right, let's just take the month of July.

Mr. Daley, I have in front of me the carpenter requests for July of 1968.

Do you remember yesterday we went through carpenter requests for the month of February 1968, and we found so many of the dispatches that said "request" on them were

[RT 1286]*

not, in* fact, verified by written requests, and you said, well, possibly they were oral requests. Do you recall that?

A Oral or phone call, and that's what you claim was the same thing.

Q All right.

A They could have been in-person oral requests.

Q Yes, okay.

Now, Mr. Daley, if we took the dispatches -- just to make things easy, would it embarrass your wife too much if I took the next month?

A Embarrass me -- what did you say?

Q Could I take the next month, August, without having you think I'm running a ringer on you?

A I'm sure you wouldn't do any harm to me that way, intentionally.

Q I'm sure not; but I do have the August dispatches which I couldn't find for July. They are around somewhere, and I have the August '68 requests.

Now, do you think the figures, if we went through these one by one, do you think the percentages would be just about the same as they were in February, when we found there are a good number of people marked requests here, but the requests don't show up here? Would you think that would be just about the same percentages?

A The circumstances that you're revealing here are not the same, so the question can't be answered that way.

Q All right, you tell me how the answer can be -- the question can be answered.

[RT 1287]

A Well, there's so many possibilities. When you say requests, you're not talking in terms of one or two or three or a hundred. There are some times when we have as high as seven or eight hundred a month.

Q I don't quite understand what that means with respect to the question.

A I mean we clear men through the local in various manners and various ways, and to come out and say -- well, I say we dispatch through the hall, through the -- in the ordinary routine of business, some months as high as six or seven hundred men.

469.

Q All right. Well, for the month of August, apparently you dispatched -- August of '68, you dispatched about this many.

I'm showing you the work referral slips, and they are about an inch high altogether when they are pressed.

A All right.

Q That's probably two, three hundred, somewhere around there, wouldn't you say? A couple of hundred, anyway.

A I'll take your word for it.

Q All right. My question is, if we took the time to go through these to see whether all of the requests that are here in the request lists have been marked "request" here, do you agree that we would find a number of people marked requests in this list whose name does not appear over here in the written request forms?

A These written request forms may

[RT 1288]*

come into play and* they may not. The company has them on file.

Sometimes they run out of them, and therefore, it's not very serious, so they write a request on anything; but sixty percent of our

470.

people are working, and they are steadily employed by contractors throughout the country.

Q When you say they run out of request forms and they write it on anything, they write it on such documents as those as we have here, just little scraps of paper, momentos, anything?

A Business cards, blocks of wood.

Q I can only represent to you that this is what your union officials have brought in to us. I didn't bring them in, so I would assume they are as much as they've got. Wouldn't you agree with that?

A Yes, sir.

Q All right. My question is, again -- maybe you can answer this yes, or maybe you can answer it no -- if we went through the requests and we found a corresponding work referral, wouldn't you agree that at least 95 percent of the work referrals would have the word "request" on it? That's point one.

A I never went -- I never got the question put to me before. I can't say. No, I wouldn't be able to say that, no.

MR. HOBART: Your Honor, I wonder if it would be possible to break at this point, and I will do this during the lunch hour.

THE COURT: I was just going to suggest

[RT 1289]*

that probably it* would relieve the tedium of the jury if you do that.

MR. HOBART: I wish I could relieve the tedium myself, but I'll do it during the lunch hour.

THE COURT: All right.

Well, we will recess now until 1:30 this afternoon, and the jury is given the customary admonition.

MR. GEFFNER: Your Honor, can we go into chambers for a minute?

THE COURT: Yes. Do you want the reporter?

MR. GEFFNER: Yes.

(The following proceedings were had in chambers:)

THE COURT: Yes, sir.

MR. GEFFNER: Well, your Honor, I wanted to go on record at this time, because I didn't want to constantly pop up and interrupt Mr. Hobart's cross-examination of Mr. Daley, but I do want to state that I have a continuing

objection, with your Honor's permission, to the constant referral by Mr. Hobart in his, I'd put it, wanderings around the dispatch records over the period of over two years; that selecting names at random, trying to compare signatures, questions as to what type of requests, and so forth, that none of the items, with possibly one or two exceptions, is there any tie-in with Mr. Hill in any way.

And my objection is, one, on the grounds of relevancy; but secondly, on the grounds that what Mr. Hobart's attempting to do is, in effect, try the dispatch procedures before this jury and court of Local 25, without any tie-in to Mr. Hill, and that this is exactly the type of procedure

[RT 1290]

that is the basis for the pre-emption doctrine, that the matter belongs within the expertise of the National Labor Relations Board.

The state court and the jury is not in a position of evaluating the accuracy or the businesslike efficiency or the fairness of the hiring hall of a construction union that is involved in interstate commerce; and again, rather than objecting constantly, I would like the record to show I did have a continuing objection to this type of questioning, as well as the introduction of exhibits which are picked out of names at random, which have been picked out for any month during the two and a half year period.

473.

THE COURT: Well, your objection is -- of course, the court appreciates your helping expedite this matter, as you have, by not constantly objecting, and I think Mr. Hobart probably is about through, aren't you?

MR. HOBART: Yes, your Honor, I am. I'm just about done with Mr. Daley, except for some specific conduct between him and Hill.

You see, the problem I've had is Mr. Daley denies that he's ever done any wrongdoing in the dispatching. Mr. Geffner asks Mr. Hill if he can name even one illegal dispatch, and I'm just -- I'm limited as to showing when there were some illegal dispatches, inasmuch as inconveniently for us, some of the records of the time period most desirable are omitted; so I have to show by inference if it was done here, then inferentially it was done there, and that's the reason I had to do that in 1968, because

[RT 1291]*

we don't have the records* for 1967.

THE COURT: Well, I suggest you go out and work on the matter that you selected so that we can either have it tabulated or summarized to the jury.

MR. HOBART: That's what I will do.

THE COURT: Then let's get on to your specific contacts with Mr. Hill; between Mr. Hill

474.

and Mr. Daley.

[RT 1292]

MR. HOBART: Because I don't have much more as far as records are concerned.

THE COURT: So I will continue overruling the objection.

MR. GEFFNER: Well, I --

THE COURT: I will allow it. It is agreed that it continues as a running objection to this line of testimony.

MR. GEFFNER: Yes, I just wanted to emphasize, your Honor, that I understand your Honor's ruling, but that to merely throw in a series of names as to whether their slip was marked request or not request is absolutely no proof that they were in any way dispatched out of order.

THE COURT: Well, it may be, but that's a matter, I think, for argument, and we will see.

We will see how Mr. Hobart hooks it up in his summation, and if it gets to the jury, how the jury treats it.

So let's go to work on these things and try to button it up this afternoon.

(Whereupon, the noon recess was taken until 1:30 P.M. of the same day.)

THE COURT: All right.

MR. HOBART: Thank you, your Honor.

Your Honor, I had reference to these two documents, a work dispatch for Mr. Ed Burge, which had originally been a white slip request for Arvin Mayfair, and I ask that that be admitted as plaintiff's next in order.

THE COURT: All right, that will be 60, and that's June --

MR. HOBART: 4.

THE COURT: All right, that is 60.

MR. HOBART: And as 61 I would request the work referral slip to Milton Taylor, who came in on a white slip request for a Mr. Carroll Rei, dispatched on 6-4-68.

THE COURT: That's that Dotter?

MR. HOBART: Yes, your Honor, I think so.

THE COURT: All right.

MR. HOBART: We will see if we have some more 1967 --

Q. Mr. Daley, let's see how many of these we have in order for the first three months of 1967.

We've got January 9, January 16, January 23, January 30; February 6, February 13, February 20, February 27; March 6, March 13, March 20, and March 27; so that should give us the first three months pretty complete, shouldn't it?

A Yes.

Q Now, Mr. Geffner asked whether Mr. Hill could point out one illegal dispatch in those three months of 1967. Let's see if you and I can't find some.

[RT 1293]

Now, keep in mind what records we have to work from, and if you know of some others, tell me. As far as I know, all we have to work from are the out-of-work sheets themselves. I know of no work referral --

THE COURT: This is the first three months of '68?

MR. HOBART: '7, your Honor.

THE COURT: '67?

MR. HOBART: That's right.

Q I know of no work referral slips themselves. I know of no white slips, and I know of no orange or employer requests.

Do you know of any for that period of time, those first three months of '67?

A I wouldn't have the least idea that far back.

Q All right. So to determine whether there had been any improper dispatches, we're somewhat limited, wouldn't you say, without these additional records?

A I didn't hear you.

Q I said, in order to make it an accurate determination as to whether there were any improper dispatches in those first three months of 1967, we are somewhat limited in that we don't have much in the way of records.

A I don't know how to answer you there. That's your supposition.

Q Okay. You'd say we are somewhat limited in our records? Would you say that?

A You say that.

Q You'd say that, too, when you can't

[RT 1294]*

see anything* more than that in front of you, wouldn't you?

THE COURT: Well, I don't think we are getting anywhere here.

MR. HOBART: All right, your Honor.

Q Mr. Daley, if you would take a look at the sheets of 2-6-67 --

THE COURT: These are the out-of-work sheets?

MR. HOBART: Yes, your Honor.

Q Have you got those sheets? All right.

Now, to begin with, Mr. Daley, taking a look at those sheets of 2-6-67, tell me if you find the name of Mr. A. Walker.

A In a particular sheet -- I mean, page?

Q Yes -- well, I'm going to have to help you with that. We're going to have to run through it together, because unfortunately, time didn't permit me all the details that we wanted.

Mr. Hill is on page -- well, I'll show you where Mr. Hill is when we find Mr. Hill. Let's just go down looking for A. Walker and Richard Hill, how's that?

Okay, here's Richard T. Hill on page 6. See him?

A Uh-huh.

Q He's down about line 16.

A 17.

Q 17? There's 21 lines.

A Yes. Got five below him.

Q If that's 16, 17, 18, 19, 20, 21, so he's on line 16. Okay?

[RT 1295]

A Uh-huh.

Q So Hill is on page 6, line 16.

Now, Mr. A. Walker, just keep looking for him over here, see if he doesn't show up sooner or later.

A Well, you're going pretty fast. I'm not as fast as you are.

Q Okay.

THE COURT: Haste makes waste.

MR. HOBART: Indeed it does.

Q Well, by George, here we go, Albert Walker. See him there?

A Yes, sir.

Q He's on page 15, isn't he?

A Uh-huh.

Q He's at line 18?

A 18.

Q Line 18.

Now, there's no dispatch listed after his name, is there, on that?

A No.

Q We know that Mr. Walker got dispatched, Mr. Daley, because I happen to have a copy of the Carpenters Health and Trust, and you will see that in February of 1967 he was dispatched to Swinerton & Walberg, and he worked 67 hours at 420 South Grand Avenue. Do you see that?

A Yes.

Q All right. Inasmuch as these records do not indicate the date of the dispatch,

[RT 1296]*

we just know that it's* 2-67, Walker, A. Walker, dispatched to Swinerton & Walberg, and he got 67 hours.

And we also know that Hill, above him on the lists --

A Is this supposed to be this request?

Q Well, you're going to be able to get an opportunity to say which of these were and which ones weren't at the appropriate time. We will just go through them right now and see what we have.

Your Honor, I'd offer Mr. Walker's health and welfare record into evidence, indicating that he was dispatched on that occasion.

MR. GEFFNER: Your Honor, I object to the reference of dispatch. There's no evidence of him being dispatched.

THE COURT: It's evident that he did -- or there was a quarter for him, 67 hours of earnings at Swinerton & Walberg in the month of February, 1967.

And that's the document you want me to mark into evidence?

MR. HOBART: Yes, your Honor.

THE COURT: It will be received as 62.

MR. HOBART: I will need it back, your Honor. There's also one other one off of that.

THE COURT: Yes.

MR. HOBART: Thank you.

Q Now, turning our attention to the sheets of March 6, 1967, I will again have to start looking for Mr. Walker.

But to begin with, we know that Mr. Hill is on page 3 at line 7. Do you observe that?

[RT 1297]

A You mean you're looking -- still looking for Walker?

Q Right now I'm looking on March 6, 1967; correct?

A And you're looking for Albert Walker?

Q Yes, but before we do, I just want you to take notice that Mr. Hill is on page 3 at line 7. Is that fair enough?

A Fair enough, but I'm confused, here. Are we still looking for Mr. Walker?

PAGINATION ERROR

TEXT IN SEQUENCE

Q Yes.

A One week -- or one month after he was dispatched, supposedly?

Q Sometimes these people show up just all the time, Mr. Daley.

A Well, I just want it clear, you see, because I was a little confused here.

Q All right. Well, I'm going to show you the health and welfare record. I am going to give you the inside information just a little ahead of time.

You see that he was dispatched to Swinerton & Walberg, and the, sure enough, one month later he was sent off to a four month job to Pozzo Construction Company, wasn't he, so let's --

A Well, can I ask you a question, sir?

Q You certainly may.

A Do you have the dispatch orders for them two jobs?

Q Mr. Daley, I never had them, ever, and I only wish that I had. The answer is no, sir.

[RT 1298]

A Well, can I ask you another question?

Q Surely.

A It's assumed that he was dispatched from Local 25?

Q That's an assumption that I'm making, but you and your counsel have all the vast facilities of the carpenters' records, and you can rebut that presumption when it's your turn. Fair enough?

A Well -- fair enough, but I'm a little confused at the way you're going about it. I just wanted to clear my head about it.

Q Anytime you want to get your head cleared, just let me know and we'll try to clear it.

Now, we know Mr. Hill is on page 3, line 7. Now, let's look on down and see if we can find Mr. Albert Walker someplace on these lists again.

I realize I'm going faster than you, but believe me, I've done this so many times that I'm almost the world's greatest expert at it.

A I'll give you a job in the Local 25's dispatch office.

Q If I lose this case, I may need it.

Okay, Albert Walker, page 8, line 2; is that right?

A Yes.

Q So Walker's at page 8, line 2. You'd concede that certainly is well behind Mr. Hill; isn't that right?

A Sure.

Q All right. Now, on that date, or at some date around that date, because we don't

[RT 1299]*

have the exact day off of* here, but some date in March of '67, Mr. A. Walker was dispatched to Pozzo Construction Company.

He worked on that job for a total of, let's see, one, two -- 705 hours; and, again, Hill is above him on the lists.

That's all we have on Mr. Walker today. I'll hand that back to your Honor.

Now, to move forward on Mr. Geffner's question if we can show any other questionable dispatches, let's go to a dispatch of a man by the name of Alex Blancarte. Now, you will notice that on some date in February of 1967, according to the Carpenters Health and Welfare

Trust records, Mr. Alex Blancarte --

THE COURT: Alex Blancarte?

MR. HOBART: Yes, your Honor. It is spelled B-l-a-n-c-a-r-t-e.

Q -- was dispatched to Pozzo Construction Company, and we don't know the date that dispatch occurred, whether it occurred before or after he was dispatched to Shirley & Associates; but the Pozzo Construction Company job lasted until December of 1967.

A Could I ask you one question?

Q You surely can.

A Where was the jobsite?

Q Gee, if you'd only kept the records we could have answered you, but I just can't tell you, Mr. Daley.

A Well, Mr. Hobart, Pozzo is a pretty big construction company, and so is Swinerton & Walberg. If I can't know the

[RT 1300]

address of the job, how do I know he was dispatched in my area?

Q Well, you can be sure of one thing, he was on your sheets, because I will show you

the name on the sheets.

A You're allowed to go to any local and have your name on two or three local sheets.

Q Well, as I indicate, your counsel has all the vast powers available to him. You can go out and check all the other sheets of the other locals, and if we are trying to infer something else --

MR. GEFFNER: Your Honor, you can be sure we are not going to check 34 other locals out-of-work sheets.

THE COURT: This is from the health and welfare records. What month did you say Blancarte was sent to Pozzo?

MR. HOBART: February, your Honor.

Your Honor will notice I'm only sticking to the three months where counsel asked Mr. Hill if he could name one single illegal dispatch, so we are just going to stick -- during those first three months, so we are just going to stick to that first three month period.

THE COURT: Well, have you got Blancarte's relative position?

MR. HOBART: Yes, your Honor, I'm going to get that right now.

On the sheets of -- well, if I have my own here I can do it quicker.

Mr. Hill suggested to me that maybe a Catholic church over on Hill and Main, that

[RT 1301]*

Pozzo job. Does that ring* any bells with you?

A I seem to remember several buildings with Pozzo. One was in Hollywood, one was in West Hollywood.

Q I'm just trying to be helpful.

A Well, I don't think that's being helpful, because that's a leading question, because you suppose it's a church. I don't know.

Q I don't suppose it, I didn't know Pozzo built that church.

A Well, they did.

Q That's good to know.

Now let's take a look at the sheets of February 13th. We see that Mr. Hill was on page 5 on those sheets, I believe. He is indeed, he's the last name.

Now, let's see if we can find Mr. Blancarte on here anywhere.

A I didn't see this other individual. You don't want to check on me, or anything? Like the judge said, haste makes waste.

Q You go ahead. I may be as wrong as rain, I'm just trying to save time.

My mistake, my notes are that Mr. Blancarte does not even appear on these sheets, so naturally, we are not going to find him.

A I don't think Mr. Blancarte belongs to Local 25.

Q You don't?

A I'm pretty sure he doesn't.

Q Well, I'm not sure how we are

[RT 1302]*

going to correct* that at the moment. I am under the impression he does, but let's just take a look at when he does appear on some of the sheets. We'll see what local he signs.

Does anybody know offhand? Do you know if he was a member of this?

MR. SCOTT: I don't know if he was there. We have several Blancartes.

Q BY MR. HOBART: It wouldn't matter, anyway, even if he wasn't there.

A Well, of course it would. Suppose he was being sent to -- if he was dispatched to Pozzo Construction by his own local, the health and welfare records would show it.

Q Well, I'm suggesting that he was sent from here, because he shows up on your sheets over the years time and time again.

A No, he doesn't, sir.

Q I don't have time to debate you now, but I can tell you I have seen the name.

A You have, certainly. I have seen them, too.

Q On Local 25 sheets?

On Local 25 sheets, but ordinarily he signs somewhere else.

Q All right.

Now, if the records show Mr. Blancarte received an appointment in 2 67 to Pozzo, and I won't add up the hours, but altogether the months that that lasted, it was a 12-month job --

THE COURT: Twelve months?

[RT 1303]

MR. HOBART: Twelve months, your Honor.

Hill on sheets, Blancarte not.

Q If you just, for purposes of making a point, if Mr. Hill is on those receipts above him, and Mr. Blancarte is not on those sheets, under the rules, and if there was no request, Mr. Hill should have been offered that job before Mr. Blancarte, if there was no request, shouldn't he have?

A I don't admit that -- I can't see where the man was on the books at all, where he was dispatched. You haven't shown me where he was dispatched.

Q Well, I've shown you numerous occasions where men aren't on these books, and they were dispatched, Mr. Daley.

A You had the dispatch, too.

Q So you know it's something that happens, and it happens frequently.

A Not in this instance.

Q Mr. Daley, because we don't have the records, is not our fault.

A Well, then, I don't think it is --

Q The point I'm making is, you have seen it time and time again where men have been dispatched to jobs that aren't even on the sheets.

A You are trying to put words in my mouth that I cannot possibly accept. This man was not even on the list.

Q Which man?

A Blancarte, according to you, and I say he didn't even belong to the local, and therefore, it is very -- more than probable that

[RT 1304]*

the man was dispatched from his own* local.

Q Would you have suggestion as to how we could check, at this date, as to whether Mr. Blancarte was a member of Local 25?

A One definite good suggestion.

Q What is that?

A Subpoena the records of 34 locals.

Q Why not just have Mr. Scott call his own local? He could do that, couldn't he?

A You mean you want him for a witness, too?

THE COURT: He's already been a witness.

THE WITNESS: Well --

MR. GEFFNER: Mr. Hobart, if you tell us what you want, we will try to check it out for you.

MR. HOBART: Yes. If somebody would just telephone Local 25 and ask how long Mr. Alex Blancarte has been a member of that local.

MR. GEFFNER: We will find out.

MR. HOBART: Thank you very much.

Your Honor, I would offer the health and welfare record of Mr. Blancarte as plaintiff's next in order.

THE COURT: All right, that will be 63.

Q BY MR. HOBART: Would it refresh your memory at all, Mr. Daley, if I said Mr. Hill said Mr. Blancarte has been a member of that local for at least ten years?

A I'm sure you are able to judge for yourself whether he is or not. I can't testify to that.

Q It doesn't refresh your memory one way or the other?

[RT 1305]

A I say he wasn't.

Q All right.

If you would direct your attention to the sheets of January 9, 1967, you will note Richard T. Hill is on page 10 at line 6.

Tell me when you have found that.

A 6, that's right.

Q Am I correct so far?

A Right.

Q Now, if you will review any part or all of those sheets that you want, and tell me whether you see the name D. Vandenberg on those same sheets.

A You want 1-9-67?

Q Yes.

A On any page?

Q On any page -- well, wait. Let's do this even more accurately.

Yes, okay, 1-9-67. Do you see him anywhere on the pages?

A What is the name again?

Q Vandenberg. You know that name, don't you, Dennis Vandenberg?

A No, sir.

Q Okay. Do you see him anywhere?

A I haven't finished yet, Mr. Hobart.

No, sir, I don't see him.

Q Okay. We don't see him on the January 9th sheets.

The health and welfare records indicate
[RT 1306]*

that he* was dispatched in January to a Carlsen & Herold Company, and he stayed there two months, through January and through part of February of '67, earning a total of 80 hours.

A Again, what job address?

Q Again, I'm sorry, I have unavailable sufficient records to give you that information, Mr. Daley.

THE COURT: What was the company that he was sent to?

MR. HOBART: Yes, your Honor.
Carlsen, C-a-r-l-s-e-n --

MR. GEFFNER: Your Honor, I want to object to Mr. Hobart's words "dispatched," based on the health and welfare records. The health and welfare records indicate the name of the employer and the hours worked. It does not indicate "dispatch" or regular employee, or from one -- all it states is the name of the

company and the hours.

THE COURT: I think that's right.

MR. HOBART: I will be glad to call it whatever he wants to.

Q Now, sticking with Mr. Vandenberg again, on the sheets of 2-6-67 you will find that Hill is at page 6. See if you can't find him on page 6.

See him there?

A Yes, sir, 16.

Q Line 16. Now take a look at page 14, tell me if you don't see Mr. Vandenberg's name over there.

A Yes, I see one written in, or printed in, I mean, by hand.

Q D. A. Vandenberg; right?

A Yes.

[RT 1307]

Q And he's on page 14, line 20.

A Page 14, line 20, yes.

Q All right.

Now, the records of the health and welfare indicate that he was -- what's the word you wish us to use?

MR. GEFFNER: Well, if you're going to be accurate, the health and welfare records only show the hours and the name of the employer.

MR. HOBART: All right.

Q The health and welfare records indicate that he worked for Conant & Lieberman -- I'll just write Conant, if you don't mind, just for the sake of -- I'll put Conant and L -- and that that job garnered for him 16 hours.

You said Hill was on page 6. Is that what we said on that?

THE COURT: Page 6, line 16, yes.

MR. HOBART: And Vandenberg was on page 14, line 20, was it, your Honor?

THE WITNESS: That's right.

THE COURT: Yes.

MR. HOBART: All right.

Q Then to Mr. Vandenberg's additional good fortune on -- let's see, Mr. Vandenberg does not appear, according to my notes, on the 2-13 sheets, so let's go to the sheets after the 2-13 sheets, which would be the 2-20 sheets.

Okay. Well, I didn't notice where he was, but if he's not on the 2-13 sheets, and Mr. Hill, on the 2-13 sheets is getting up there now. There he is, on page 5.

[RT 1308]

Okay, first let's just satisfy ourselves that Mr. Vandenberg hasn't gotten ahead of Mr. Hill.

I don't see him in front of him here, nor here, there. It would be pretty impossible for him to be ahead of him, anyway, since he's been working.

Let's just see if we can find Vandenberg now. No, I don't see him on the 2-13 sheets, and maybe we can just give it one last shot for the 2-20 sheets.

Oh, here they are. Let's just see if we can find him on here, starting at the back of the book, since that's probably where he would be.

Well, Dick Hill is still on page 5, isn't he?

A Page 5, second line.

Q All right. And Mr. Vandenberg doesn't show up on the 2-20 sheets?

A No, sir.

Q Now, the record will show, health and welfare records will show -- can we do just one more?

Let's take the 2-27 sheets. Let's just exhaust all possibilities, shall we, for the kick of it? As long as your eyes and my eyes can take it one more time, let's just do it.

You see Mr. Hill's got to page 3 now, anyway.

A Is that page 3?

Q Oh, I'm sorry, I was reading that. He hadn't quite got to page 3.

A You are upside down, weren't you?

Q That's right. Mr. Hill has been

[RT 1309]*

plodding along,* and he has only got to page 4. He was a long time on page 5, wasn't he?

A Yes, he spent a little time there.

Q Where is Mr. Vandenberg?

Well, all the rest of the way Mr. Vandenberg had the pleasure of sitting on the sheets.

THE COURT: What date was that?

MR. HOBART: February 27th.

Q But the record will show, will it not, Mr. Daley, that on February 27th -- strike that -- that in February 1967 D. Vandenberg worked for the Dinwiddie-Simpson Company, starting in February, and he worked for a total of one, two, three, four, five, six, seven -- total of seven months, earning, we'll say, an average of better than 150 hours a month.

Unlike Mr. Hill, he didn't have to sit there on page 5 for so long.

Your Honor, I would offer into evidence the health and welfare record of Mr. Vandenberg.

Your Honor, I think there would be a stipulation by counsel. They have just kindly obtained the information that Mr. Blancarte transferred to Local 25 in January of 1965.

MR. GEFFNER: January 12th.

Q BY MR. HOBART: That's news to you, isn't it, Mr. Daley?

A Definitely is, because he was always a member of another local, that I knew of.

[RT 1310]

Q All right, let's go on to another fellow by the name of Joseph Kulcheski. You remember Joseph Kulcheski, don't you?

A Sounds familiar.

THE COURT: Just a moment. The Vandenberg health and welfare records will be 64.

MR. HOBART: Thank you, your Honor.

Mr. Kulcheski -- take a look at the 2-20 sheets. Hill is on page 5. Now we are going to have to find out where Kulcheski is. He's in here somewhere, but I'm just not sure --

THE COURT: What date is this on the sheets?

MR. HOBART: These are the 2-20-67 sheets. Hill is at page 5, line 2, and I think Mr. Kulcheski may appear ahead of him. Let me just check.

Q Now, the records will reveal, will they not, that Mr. Kulcheski is on page 2; is that right?

A Yes, sir.

Q He's down around line 11, or so?

A Somewhere around there.

Q All right. Now let's just see whether he's legitimately there. He should be the same place on the 2-13 sheets, shouldn't he, in the relative position?

See if Mr. Kulcheski is on page 2. Take a look at the names around there.

The name immediately above him is Howard Wolfe, and the name immediately below him is Reid Smith. Do you see Mr. Wolfe and Mr. Smith anywhere?

Lay them flat out so we can both take a [RT 1311]*

look at it* easier.

I see a Reid Smith over here. Now, Reid Smith is the name that on 2-20 is immediately below Kulcheski, and looking at Mr. Smith on 2-13, I do not see the name of Kulcheski either above him or below him, do you?

A No, but he could have been re-dispatched, of course.

Q Could be what you call a pickup; later put back because he was --

A Well, yes, it could be -- whatever it needed, or whatever was necessary for him to be. He could have been --

Q Well, let's be entirely fair to both sides. Let's take a look and see whether on the 13th Mr. Kulcheski shows up at all.

If you want to take my word for it, you can, but if you want to kind of keep an eye on it, you'd better do it.

A Go ahead.

Can I save a little bit of problem here? You'll find Kulcheski on page 3 on 2-6.

Q Okay, let's see where he is in the meantime.

A And Reid Smith is directly below him again.

Q Now, the health and welfare record indicates that in January 1967 -- let's go back to where he was now.

A Here he is, right here, 2-6.

Q The health and welfare record indicates that he worked 36 hours in January; is that right?

THE COURT: How many?

MR. HOBART: 36 hours.

THE WITNESS: I wouldn't have any

[RT 1312]*

knowledge of that, and* I don't know the contractor.

Q BY MR. HOBART: Well, these records have been compiled by the Carpenters Health and Welfare Trust for Southern California Eligibility Department --

A But not with addresses or dispatches.

Q No, but this doesn't matter, you see, Mr. Daley. You have already told us that once a man works 16 hours he's supposed to be dropped from the list.

A If he was dispatched from another local, and he was dropped from the list, maybe -- I don't know where he was dispatched from.

Q Mr. Daley, for the first time now in two days, now you've been talking about being dispatched from another local.

What reason do you have to think this man, or any of these men have been dispatched from some different local all of a sudden? Why has that popped into your thinking?

A Well, the only reason is, you are bringing in these incomplete records from the health and welfare.

Q We have asked the health and welfare people to compile the names of the contractor, the months they worked for them, and the number of hours they worked during that month.

A Well, Mr. Hobart, you are assuming this job was in the area, or under where I dispatch from, and I can't say it was because I don't know the contractor. I don't remember him.

Q Well, as you have indicated,

[RT 1313]*

sometimes your memory* isn't what you'd like it to be.

But is it not a fair statement, Mr. Daley, that when a man works over 16 hours in the month of January, and here he worked 36 hours, Mr. Kulcheski did, the man should go to the bottom of the list?

A What list?

Q The out-of-work list.

A Whereabouts, Local 25, or where he was dispatched from?

Q You mean to say that it's permissible for a man to be working, and still be on some other books at the same time?

A How can you check it?

Q Will you first tell me whether that's permissible.

A No, it isn't.

Q All right. Let's presume, unless you know something different, let's presume the men are following the law.

So, Mr. Daley, the point I'm making is, that once a man works 36 hours, he belongs at the bottom of the list when that's over. That's the rule, isn't it?

A Usually that's the rule.

Q All right. And in our case, on the February 6th records, Mr. Kulcheski, who has just finished working at least 36 hours, finds himself, fortunately, to be located on page 3, which is some distance from the bottom, and there are 16 pages of out of work people.

A I don't know where he got his 36 hours from, and I wouldn't have no availability

[RT 1314]*

to the health and welfare;* so if he registered on my books, I would have no way of knowing that he worked some other job for 36 hours, or three minutes. I would have no way of knowing this. I would have to accept the man's eligibility as he stood there before me.

I have Joe Kulcheski on 1-6-67 on page 3. Reid Smith is above him.

Q There is just nothing that gets in at the bottom of that list, is there?

A It seems like Mr. Reid Smith jumped up five or six men ahead of him here, so we are not infallible on that roll call.

Look here, and he was below Joe Kulcheski two weeks, three weeks, that I know of, according to these records.

Q Mr. Daley, there's one thing I will agree with you, and that is that you are not infallible on that roll call.

A I agree with you there. I had no secretary to keep the books for me.

MR. HOBART: Your Honor, I have the health and welfare record for Mr. Kulcheski, and ask that it be marked plaintiff's next in order.

THE COURT: All right, that will be 65.

Q BY MR. HOBART: How about a man named L. J. Spencer, are you familiar with him?

A Yes, I am.

Q Did he ever work as a steward for you?

A Yes, sir.

Q Directing your attention to the [RT 1315]*

sheets of 2-13* and 2-20-67, again, on both of them Hill's on page 5, and I have gone through both of those sheets, and I've gone through the rest of the sheets for February, which I invite you to do if you wish, but I could not find the name of L. J. Spencer on any of those sheets.

A For what?

Q For February 13 or February 20th or February 27th, if you'd like to take a moment and go through one of them at random just to satisfy yourself.

A Well, it just happens that this young -- this man was a steward.

Q Okay. Well, we'll get around to that steward business in a moment.

Do you want to just concede that he's not there, or do you want to take a look?

A Of course, we don't want to take up this time.

Q All right.

He doesn't appear on the books, and the out-of-work records indicate that in February 1967 he received a dispatch to Western-Alta

Construction Company, where he worked for 112 hours, and then he received another dispatch in February 1967, again without ever going back and having to sign the books, to the Samuelson Bros. Construction Company, where he worked in February apparently the balance of the month, 20 hours, and then worked in the same company in March, April, May, June, July, August, September, October, November, December, totalling hundreds and hundreds of hours, probably averaging a hundred and fifty, a hundred

[RT 1316]*

sixty hours* a week. Would that be about a fair statement?

A Well, it would prove one thing, that he had no business being on this book here, or on this dispatch list.

Q Why shouldn't he have been on this book.

A You've got his work record there, supposedly.

Q I thought you told me you always started a job from the work list?

A I never started any job from the work list, it was the contractor that started the job, and then took his own men in there to start the job.

Q Oh, well, was L. J. Spencer one of their men?

A I wouldn't have any idea, but evidently, working for Samuelson as long as he did, and as a steward, he must have been well thought of to keep him that long.

You don't keep a man that long and pay him \$250 a week unless he's quite qualified to earn it.

Q That may very well be the case.

With reference to his dispatch to Alta Construction in February of 1967, can you tell me why he did not appear on the sheets prior to getting that dispatch?

A I have no way of knowing, Mr. Hobart, that that man was dispatched from Local 25.

Q That's right, he also may have come from some other local.

A He's a member of Local 25. This I know.

Q How many other locals did you know that he was working out of?

A I wouldn't be able to say.

[RT 1317]

Q You didn't know of any, did you?

A No, I didn't.

Q Well, then, why raise the issue that he may have been working for someone else?

A Because it's allowed. It is permissible to go to other locals and register on their out of work sheets.

Q Do you think a man that's going to be getting these kind of hours out of Local 25 is going to be fiddling around with some other local?

A If he's a union man, he would.

Q He can only work for one, and have his name on one, can't he?

A Yes, sir, he could, if he wished to.

MR. HOBART: Your Honor, I have the health and welfare records for Mr. L. J. Spencer, which I offer as plaintiff's next in order.

THE COURT: All right, 66.

Q BY MR. HOBART: Now, to get these back in order again, Mr. Daley; and believe me, Mr. Daley, I hate taking up your time, our

time, and the court's time for this --

A I'm perfectly happy.

Q -- but the question was asked if we can name one. We certainly must try.

You may recall this period of time, Mr. Daley -- or do you recall January, February, March 1967, how Richard Hill, constantly at the window, constantly charging that you were making illegal dispatches.

A I'll never forget it.

[RT 1318]

Did you ever admit to him that you were making any illegal dispatches?

A The conversation between him and I during the day and the night while we were drinking was continuous, one accusation after another.

Q Did you ever admit to him that you were making illegal dispatches, and "What are you going to do about it, Dick," anything like that?

A I couldn't possibly make such an admission to an antagonistic fellow like him, even if I was doing it illegally, which I wasn't.

Q Okay. If you will start with the sheets of January 23 --

THE COURT: '67?

MR. HOBART: '67, yes, your Honor.

Q Now, if you will look on page 2, line 8, you will see the name of David Fonseca, I think. This page is 1 here, and I think somehow it got reversed.

A Quite a few things are reversed around here.

Q I couldn't agree with you more; but if you will allow me to straighten the matter out, that's page 1, and if the numbers mean anything, that's page 2.

A I guess we are supposed to take it that way. That's what it is numbered there.

Q All right. Just make that mental note on that one the pages are reversed, page 1 and 2.

A Page 1 is page 2.

Q Right. Now, at least that's the way it is marked.

[RT 1319]

A Yes.

Q. And you see David Fonseca is on page 2, line 8; is that right?

A Yes, sir.

Q All right. Now, let us see if David Fonseca is on the week before at anywhere near the same place. That would be the week of the 9th.

David Fonseca on the 23rd is between the names of Ebbe and Collins. Just see if we can find either of those gentlemen.

Okay. We find Fonseca, so he's okay; right?

A Supposedly.

Q He's about where he should be?

MR. GEFFNER: What date is that, again?

MR. HOBART: Beg pardon?

MR. GEFFNER: What date is that?

THE WITNESS: 1-9, which would be 1-9-67, Monday.

Q BY MR. HOBART: We won't go any further beyond that, so we'll just get that one.

Looking again on 1-23, page 5 --

A You jumped a week.

Q 1-23 --

A This is 1-9.

Q Yes, I'm just moving on to 1-23 here.

A You don't want the 16th then?

Q I will want it in a second, but I don't want it right now.

Okay. We see the name of David Bolton,

[RT 1320]*

page 5, * down at about line 12 or so; right?

A Yes.

Q Okay, let's just see if he's on 1-16, at roughly the same place. He would be after Milton French.

Okay, I see Milton French on page 5. Let's see if we can find Bolton anywhere.

Well, we certainly don't see Bolton up high like he appears, do we?

A No, sir.

Q Okay, so maybe he's in front. Let's doublecheck it that way. We don't want to make any mistake to your disadvantage.

All right, we do have where Mr. French is, which is exactly where Mr. Bolton should be.

On the list of 1-23-67 we have the names French, Bolton Whyt; on 1-16, the preceding week, we've got French and Whyt, or Whybo, and some guy named Dyroy.

So Mr. Bolton would appear to be a sneak-in on 1-23, wouldn't he, or a pickup?

A I don't know how he would appear that -- have you checked -- see, these are typed records, now, and of course, the signature records are the authentic ones.

Q That's all that have been provided for us.

A Well, my dear sir, you just don't type a man's name in there without having his signature to a list that -- we have a signature list.

Q And wasn't it your policy to start typing these lists up?

[RT 1321]

A Not my policy. We used to have to hire the girl in the financial secretary's office to do these day by day.

Q And you told her to type them up exactly the way they appeared in the handwritten list?

A In the signature list.

Q So we'll assume she followed your orders, and somehow Bolton's name shows miraculously on this sheet?

A Or it disappeared miraculously on the other one.

Q We don't have the notes here, but Mr. Bolton, on April 3 was dispatched. We won't worry about that right now.

But Mr. Bolton's presence on 1-23 constitutes a sneak-in?

A It wouldn't constitute a sneak-in there, because the circumstances are somewhat hazy the way you represent it.

Q I'm only reading what is on the record, I'm not representing anything.

When I say sneak-in, all I'm saying is he wasn't there the week before.

A Without my cooperation, you mean?

Q He wasn't there the week before without your cooperation.

A That's what you are saying?

Q Well, I don't know where he was or whether you and he were fishing.

A I sure don't know where he was, either, I'm pretty sure of that. I don't know.

[RT 1322]

Q We know one thing, if he's not there one week, he's not entitled to be there the next week.

A Probably working.

Q If he's working, that's another reason he is not entitled to be higher up on the list?

A Did it ever occur to you we took him off the list because he was in an illegal position?

Q It would have occurred to me if that was --

A This is one other thing. I didn't have time for all of this book work. I notice here you don't do the complete writing, and you're only here for weeks. You don't do all the writing up there.

THE COURT: Well, I think we are all getting a little tired. We'll take a ten-minute recess, and the jury is given the usual admonition.

(Recess.)

THE COURT: All right.

MR. HOBART: Thank you, your Honor.

Q Mr. Daley, I'm going to just limit this for us to the amount which I have on the board, both to save all of us from falling asleep and from the rigors of monotony.

We left off with -- let's see, which one of these gentlemen -- Mr. Bolton. I guess we have done Mr. Bolton already, and we are now onto Mr. Dawes.

If you will take a look on the sheets of 1-23-67, keeping in mind that page 2 is page 1, and vice-versa.

A What page do you want me to look at?

Q Page 2, line 14. See this fellow, Mr. Dawes, there?

[RT 1323]

A X. J. Dawes.

Q All right. Would you be so kind as to tell me whether Mr. Dawes appears the week before, whether he's moved up to his high level, or whether he, by virtue of sneaking in, got there?

Keep in mind this is page 2, so you don't want to make a mistake. You are looking on page 1, on the next one.

A Oh, yes, I'm confused for sure.

Q I wouldn't want you to do that. I want you to have every opportunity for fairness.

A That would be this here?

Q That would be page 2, and maybe on page 3 would be a better place to look.

Do you see him on page 3, by any chance? Let me give you some other names around him. Maybe we can spot some of the names around him.

How about Deckelmann and Baxter and Coleman below him. Do you see Deckelmann, Baxter, or Coleman on page 2 or 3? Do you see a Baxter?

A I don't see Deckelmann, I don't see Coleman. I don't see any of those. No, I don't see any of those behind him.

Q All right. How about some of the people in front of him; Valles, Waldner, anything like that?

There's Coleman. Here's Coleman over here.

A Page 3?

Q Yes.

[RT 1324]

A Yes, I see -- but I don't see Dawes.

Q You don't see Dawes anywhere,
do you?

A No, sir.

Q Which makes it look like a sneak
in? In other words, he wasn't there the previous
week, now he's high up on this week?

A This is the way it could be. Could
we go back to probably 1-9?

Q Yes, by all means.

A I mean, there is a potential there.

Q There is that potential, and I could
always be wrong.

A I find no Dawes up to page 4.

Q All right.

Now, we don't have the date he was dis-
patched, so we'll move on to the next one.

After Dawes, let's go to Mr. Maurovich,
and --

A Which one?

Q No, take a look at the sheets of --
yes, 1-23-67.

A Page?

Q Page 4, line 10.

A Rudolph Maurovich.

Q Okay. He's just below a man by
the name of Williams, and just above a name by
the name of Plai.

Let's take a look at the preceding week
and see if we can find him.

A 16?

Q Yes.

[RT 1325]

A Page 10, was that?

Q No, that was page 4. Keep that
out.

It probably would have been on page 4 or
page 5 on this one.

A What names are we looking for,
Williams and Maurovich and Plai?

Q Yes. I see Burrell, Kulcheski, Maurovich, any of those names -- here's a Burrell, Robert.

A There's Brown Burrell, and then Robert Burrell.

Q We're looking at Brown Burrell.

A There's a Williams, here's a Brown Burrell.

Q All right. Now let us see if we see our friend Mr. Robert Maurovich.

A No, I don't.

Q Okay. Again, though, like you say, to be fair, let's go back one more week to the 9th, just in case he was a pickup.

He would be about page 4 or 5, wouldn't he?

A According to some of these things he could be anywhere.

Maurovich.

Q All right. Mr. Maurovich got a job, did he?

A That seems to be so.

Q Seems to be dispatched to where?

A Weitzul Construction Company at 21st and Norwood.

Q All right. Now, that dispatch was in the week of --

A The 9th.

Q -- the 9th. Now, the only way he

[RT 1326]*

would legitimately* be back up on this week would be is if he had 15 hours or less; isn't that right?

A I would imagine that's it.

Q So since we don't have that information, we'll have to make a note and see if we can get it.

Now give me the week he was dispatched.

A That was the week of 1-9.

Q And to what company?

A Seems to be Weitzul Construction Company.

Q Spell that.

A Spelling it the way I think I see it is W-e-i-t-z-u-l.

Q Construction?

A Construction Company.

THE COURT: 21st and Norwood?

THE WITNESS: Yes, sir.

THE COURT: Where I went to kindergarten.

THE WITNESS: You're pretty familiar down in there.

THE COURT: Yes.

Q BY MR. HOBART: All right, you will notice that he also was dispatched February 13th, 1967. You've got --

A No, I haven't looked at that.

Q Let's find the sheets for early February.

A But are we going to skip over where he was on the thing here? Where was it? You had the 23rd. Are we going to skip over there? Perhaps he was back in position because of 15 hours.

Q Well, that's what I said. I made

[RT 1327]*

the notation over* here.

The only way we're ever going to do that is by checking it out by the health and welfare, to see how many hours he worked. I have no way of doing it now.

A Right.

Q All right.

Then the next one was J. Plai on the sheets of 1-23, taking a look at page 4.

A He's down about the middle of the page, about ten or eleven. Let's see -- eleven.

Q All right, now take a look at the following -- or the preceding week's notations, and let's see if he was there for the week of the 16th.

A What page did we say that was, 5, 4?

Q Page 4, line 11.

A Page 4. I don't find him.

Q Okay. Let's try the week before, then -- oh, that is the week before.

A No, I tried this one first. Now we are supposed to try the 16th.

Q He's not in there on the 9th, so do you want to give it a shot for the 16th?

A That would be back about --

Q He was on page 4.

Okay, he doesn't show up; isn't that right?

A Let me complete this, Mr. Hobart.

Q I'm sorry.

A It appears he's not on this list.

[RT 1328]

Q All right.

Moving right along, let's try Mr. Toney for the week of 1-23, page 3, line 15.

See his name there?

A Yes, sir.

Q Okay, page 3, line 15 for the week of 1-23.

Now let's see if he's on the week of 1-16, and I'll look at the week of 1-9.

A I can't find him.

Q You can't find him there, but I found him on the week of the 9th on page 5, line 6.

We will go one back further, and we'll see why he's not there that week.

We will have to check his name out and see what happened to him.

A We have two more. I don't see Levy or Frederick, and neither one of them are here. I was trying to use them as markers.

Q So we can't call either one of these, until we have answered these questions, sneak-ins, until we really know they weren't moved forward for some reason legitimately.

Now, going to the sheets of January 30th, Mr. Hogan -- do you have January 30th there?

Mr. Hogan, line 4 -- I mean page 4, line 20.

A Who?

Q Hogan.

A Oh, yes.

[RT 1329]

Q See him there?

A Yes.

Q Okay. See if you can find him back the week before.

A / I don't seem to find him.

Q Now, will you agree with me that on the week of February 13th, 1967, when Mr. W. Hogan was dispatched to Swinerton & Walberg --

A Where did you get these? I'm not familiar with this here.

Q These are the out-of-work sheets, aren't they?

A I don't know. They are peculiar shape and size, and all that.

Q They are photocopies. They are reductions.

A Oh, I see. I see. No wonder you had me confused.

Yes, What's the date on it?

Q The date is the 23rd -- I mean 13th.

A So we went from the 23rd of January to the 13th of February?

Q Right. I'm just pointing out that Mr. Hogan, who didn't show up prior to January 30th, ended up getting dispatched on 2-13-67 to Swinerton & Walberg.

A Why did you use that? This is here, see?

Q Okay, same difference.

That's correct, at any rate, isn't it?

A Yes.

Q Okay. Now, our next one is Mr. King.

Mr. King, on 1-30, page 5, line 7.

[RT 1330]

A On 1-30?

Q Yes.

A 1-30, and what page?

Q Page 5, line 7.

A You are talking of Marion King?

Q I suspect so, M. King.

All right, now let's take a look and see if Mr. King appears on the sheets preceding that. Take a look for the names below him, Compton, Carter, Olvera, Sapp, Williams.

A What did you say there?

Q What page is that?

A I've got page 8. I go back aways.

Q That's probably too far back.
Move forward a little bit.

A Ganier --

Q Okay, there's Ganier and here's
Sapp.

A Valencia. These are all on page
5.

Q All right. Now, Ganier is
immediately below King; right? Over here.

A Yes.

Q And Jacquinet is immediately above
him?

A Yes, but this -- yes.

Q Mr. King does not appear on that
prior sheet, does he?

A I don't see him anywhere.

Q All right.

A That's the 23rd. We'd have to
go to the 13th.

Q Let's go to the 13th and doublecheck.

[RT 1331]

A That would be on page 5. This
one here is 5, too.

Q Somewhere around 5; 5, 6, some-
where around there.

A I don't see any of those names.
None of them.

Q Well, for right now, we'll stick
to our friend King.

A I don't see Jacquinet, I don't see
Angel, I don't see Ganier. I don't see Joh
Compton.

Q Well, maybe they got dispatched
and just don't show up.

A See, it's very obvious that some-
thing happened to them, so they might have went
back to an old job.

Q Anything could have happened, I
agree. They could have all ended up in the
hospital for a week; but beyond that, King doesn't
show up on this one, does he?

A No.

Q All right.

Now take a look at your sheets for the 20th.

A Right here is where it was.

Q February 20th.

A February 20th, we have to go back over here.

Q Now let's see if you can find Mr. King.

A On what page, 6, 7, 8?

Q Well, I'm not sure. We will just have to look.

A Marion King.

Q Do you see him?

A Yes.

Q On what page?

A But I'm not sure it's Marion King

[RT 1332]*

we are looking* for.

Q That's who we have been looking for.

A Well, I'm not sure you've got the right one.

Q You've got Marion King, Sr. there?

A Yes. There's nothing there -- it's a whole family of Kings, I'll tell you that.

Q All right.

Well, let me show you on 3-20-67 --

A 3-20?

Q I mean 2-20-67, and I will show you Marion King is not indicated as a senior, junior or anything else.

A No, he's not indicated as a senior or anything, and it seems to be a copy of this sheet here.

Q Well, not exactly.

A Well, I mean, it seems to be.

Q Well, partially the same, except in these copies that have some dispatches on them, it indicates Mr. King was dispatched to the Eckler Company on Thursday of the week of 2-20-67.

A Yes, but this is page 3 of 2-20, and we're looking at page 9 of 2-20.

Q Well, let's look at page 3, then, by George, and there it is.

A Okay. Now, see, there's a little confusion.

Q Now we are happy, then?

A Right.

Q He did get dispatched, then, to the Eckler Company? How do you spell that Eckler Company?

[RT 1333]

A Well, it looks like Eckler, E-c-k-l-e-r. It's 2060 East 49th Street. I might be wrong. I probably was poaching on somebody else's territory there.

Q They will forgive you now.

A Yes.

Q Okay. Moving on, now, to Mr. Sunkin, 1-30 --

A 1-30?

Q -- page 4, line 19.

A Line 19 -- Oh, page 4.

Q Page 4, line 19.

A Sunkin.

Q Okay. Let's take a look at the preceding two weeks and see if you see him showing up there.

A I don't.

Q Okay, let's go to 1-30, Mr. Washington, W. Washington, page 2, line 11.

A Yes.

Q All right. Take a look and see if he was on the preceding week.

A I'd be amazed if he'd be on the list at all.

Q Well, you are certainly not amazed that he is on --

A I'm amazed, because the man doesn't work.

Q Well, there's two of us amazed, then.

A That's on page what did you say?

Q 2.

A Page 2. I don't find him.

Q Okay. Then how about on the sheets of 2-6-67, Mr. J. Campbell, page 3.

[RT 1334]

A I have to realign these things a little bit every once in a while.

Here we are. What page?

Q Campbell is on page 3, line 5.

A I see him, Jim Campbell.

Q All right.

A Here's that Herbert Sunkin again.

Q Okay. Well, we'll go back through him again, if you want to, but I don't recall where he was. He wasn't on the next week's list.

A What do you want with Campbell?

Q All right, see if Campbell is on the preceding week, February 6th.

A You mean January 30th? What page?

Q Page 3, line 5 on that one.

A Connie Campbell, does that resemble it, or what?

Q Well, if you tell me Connie Campbell and J. Campbell are the same --

A I sure can't do that.

Sunkin. No, I can't find him.

Q Okay. If you look on the sheets for 2-20-67, see if you don't see Mr. Campbell on here.

A Page what?

Q I'm not sure.

A Shall we start from the back?

Q No, from the front. He should have a dispatch after his name.

A Do you want to turn the pages?

[RT 1335]

Q All righty.

Jim Campbell is listed as a pickup, for some reason, and you've got him assigned out, sent out to -- what Lane is that, that job?

A It's not my handwriting, but I'll try to just -- this seems to be 2551 --

Q Beverly --

A -- West Beverly. I'm sure something's wrong there, because the fellow out there would come in and chop my head off if I

sent a man out that way in his area.

I can't get the address here.

Q Well, I see another dispatch here to the same place. It looks like Lanie.

A Well, it could be William Lane.

Q Well, that might be it.

A Or R. N. Lane, I don't know. I can't read the initials, but this is definitely a Lane, and this is, too; but the W -- this would be more accurate here, because there's no West Beverly, or anything like that.

Q I see. Just plain Beverly?

A So the W would be a mistake.

Q Okay. But, in any event, Mr. Campbell did get dispatched that week out to, we'll say, Lane Company?

A Right.

Q All right. We're down to the last three, now.

Mr. Duplantier, on 2-6 -- where are we -- page 3, line 12.

A Page what?

[RT 1336]

Q 3, line 12. See him here?

A What are we looking at, Duplantier?

Q Yes.

A All right.

Q See if he's on the 1-30 sheets.

A Disappeared again.

Q So he shows up here for the first time.

Now, let's take a look at him on the sheets for 2-13, that would be just the next week, and see if we don't find him over here.

A Can I get organized here?

We've got the man on this page here, right.

Q That's the 2-6.

A And he wasn't here.

Q He did not precede it.

Now let's see if we can find him here -- is that this him here, now?

A Dispatched.

Q He was dispatched to the Dinwiddie-Simpson job off the sheets of 2-13; right?

A True.

Q All right. Then we've got somebody by the name of J. St. Amant, something like that. Look on the sheets for 2-6.

A I'm just checking that Duplantier for a moment, may I?

Q Surely.

A We would have to assume that he

[RT. 1337]*

went to work on* request, or something like that.

Okay, now what page do you want?

Q Now I want you to check the week of 2-6 again, page 1, line 21. Was the name Joseph St. Amant?

A Yes.

Q Page 1, line 21; is that right?

A That's right.

Q Let's see if he was on the preceding week. That would be on the 1-30 list.

A You'd have to assume he went to work.

Q Okay. Either that, or he's a sneak-in. We could assume that, too, couldn't we?

A I'm always trustful.

Q I don't blame you.

Now, with respect to Mr. St. Amant, I turn your attention to the week of March 13th, and tell me -- I'll show you my copy here.

Joseph St. Amant, top of the page, dispatched to C & I Construction on March 13, 1967.

A What page is that?

Q This is page 1.

A Page 1. This is a copy of this?

Q I don't know if it's a copy of that one, but it's a copy of one that was handed to me, at any rate.

A Here it is right here.

Q That's right. But on this one you can see -- on the one you've got no dispatch is shown, but on the one I'm holding it shows the

[RT 1338]*

name's been lined out, and dispatched* to Soto Street.

A This is very easy. That can happen mighty --

Q How's that? You mean sometimes you work off of more than one sheet?

A No, I told you before. I thought you understood. I told you that this roll call was a signature type of roll call. Each man signed the list, and the list can be stolen, disfigured, and marred, and everything, and marked by people out there, which was always -- we had to take this list page by page and type it up, and keep this list within the house.

Now, this here list, and this list could have been typed, oh, maybe Wednesday or Thursday, and we wouldn't show a dispatch here. She wouldn't show it here because he'd been already dispatched, and she was typing out -- in other words, the girl in the financial secretary's office didn't always type them up exactly the same day it should have been done.

If we dispatched on a Tuesday, which we always did, this was something again. She might have typed the page up on Friday, or later, to catch up with our work.

Q Well, all right.

Just to get ourselves back on the point, however, you'd agree that Mr. St. Amant was sent out to work on the C & I Construction job?

A In other words, what I'm saying, this was a first copy, and this one here could have been a later copy.

Q Okay.

A Because this is a photostat, isn't it?

[RT 1339]

Q Yes. Yes, it is.

So the C & I Construction is where he went on the 13th, and the last one, to our everlasting relief, is Mr. Sunkin again.

A Well, here's the same one again. What are we looking for now?

Q Well, Mr. Sunkin, on 2-6.

A Right here.

Q He seems to pop back and forth.

A We saw him several places, didn't we?

Q Yes, we did. Well, why don't we skip him, because he's popped in and out,

and it will be too much trouble to check out, and I'm getting tired of it, and I'm sure you are, and I'm sure the jury is.

A Thank you.

Q Now, Mr. Daley, to make -- Mr. Daley, unless every one of these men on these two pages had been requested by the employer, bonafide employer requests, Mr. Hill's, to use your words, constant complaints of illegal dispatches would be accurate, if those were not employer requests; isn't that true.

A I can't say whether that would come in, because we have no substantiating thing here, under any of this stuff. Nothing is substantiated, whatever.

Q Didn't it occur to you that some man was charging you with official malfeasance of office?

A Official?

Q Official, yes. Did you know he

[RT 1340]*

was the* vice-president of your union?

A Yes, I seem to remember that.

Q Fine. And that is an official position, isn't it?

A Yes, it is.

Q All right. Now I'll go back to my question.

When a man is charging you, officially charging you, and going to the District Council, going to your leadership and charging you with malfeasance in office, that is, failing to dispatch according to the dispatch rules, charging you with illegal dispatches of various types and various natures, when faced with those sorts of charges, don't you think that you would have saved all evidence of these requests, had there been bonafide requests?

A Are you trying to say that I was -- if I was guilty, that I would begin to reform myself?

I've never heard of an official accusation of myself whatsoever. I don't know what you mean by official. I've never been charged, as far as I know, myself, personally.

Q You know Mr. Hill charged you?

A No, I don't know any such thing, sir.

Q You didn't know?

A If I had been charged I would have been officially notified by the District Council.

Q Did you know that Mr. Hill was charging you -- that he, personally, was charging you with violating your duties in the dispatch procedure?

A Mr. Hobart, Mr. Hill was charging everybody under anything, and under all circum-

[RT 1341]*

stances of everything; not* officially, but on the sidewalk, in the hall, everywhere, in the bars. He'd be calling me a drunken bum while I am buying him a drink.

Q Mr. Daley, I don't know if it's impossible for you to give me a yes or no answer to this, but I can wait as long as you can.

Did you know that Mr. Hill was charging you with violating the rules of dispatch by sending out people and calling them requests when they weren't; by sending out people under the table; giving them dispatches when their names weren't on the list, and when they were not requested; things of that nature?

A You're asking me did I know this?

Q Did you know he was accusing you of that?

A He was accusing me of that to my face, but not officially, or down there with the charges.

Q I see, okay. But he was accusing you in that manner to your face?

A Socially, to my face, at the window, yes, always.

Q All right. To your face he was making those charges?

A Yes.

Q My question is this. If all of these people that we've gone through, and the hundreds more we could go through if time and patience allowed it, are you telling me that all of these people were probably requests, but you just never saved the request forms?

A I can answer you this way, that if all of these requests, or all of these people

[RT 1342]*

were as illegal, whatever* you want to say, as you intend to imply, I wouldn't have lived through the day with all my membership.

* * * * *

[RT 1936]

MR. HOBART: I'd like to read, your Honor, interrogatory No. 8, of the interrogatories propounded on May 16th, 1972, and the answer thereto.

THE COURT: Who is answering?

MR. HOBART: I'm sorry. This was propounded to the Los Angeles District Council of Carpenters, and their attorneys of record.

THE COURT: Very well.

MR. HOBART: Interrogatory No. 8 reads:

"Please describe in sufficient detail all Local 25 official documents or other records which in any way involve RICHARD T. HILL in the dispatching procedures for the period from January 1, 1967, to January 1, 1969, which you contend are presently on file with the National Labor Relations Board."

The answer to interrogatory No. 8 is as follows:

"Dispatching records of Carpenters Local 25 for the period of January 1,

[RT 1937]*

1967 to* January 1, 1969 would contain work request registration forms sometimes referred to as out of work lists dispatching orders sometimes referred to as work orders. Such records were given to the National Labor Relations Board and to this day representatives of

551.

Local 25 have not been able to locate such records at the offices of Local 25 or any other office of the United Brotherhood of Carpenters and Joiners of America."

Then three questions, three interrogatories posed on October 19th, 1972, to the defendants and their attorneys. Interrogatory No. 1:

"Please set forth, fully and completely, all EMPLOYMENT LISTS (also referred to as Out Of Work lists) presently in the possession of any Defendant herein, which were signed or prepared during the period of January 1, 1967, through January 1, 1969. (Please set forth the weekly date of each such list.)"

Inasmuch as the answers are all the same, I will read all three questions. Question No. 2:

"Please set forth, fully and completely, all EMPLOYER REQUESTS, whether formal or informal, presently in the possession of any Defendant herein, which were prepared during the period of January

[RT 1938]*

1, 1967* through January 1, 1969."

And question No. 3:

"Please set forth, fully and completely, all WORK REFERRAL SLIPS, which are

552.

in your present custody, which were used to dispatch Local 25 carpenters to job-sites during the period of January 1, 1967, through January 1, 1969."

The answer to each was that inasmuch as plaintiff has already inspected and photocopied all of the aforementioned records at the defendants' offices, and is or should be fully aware and knowledgeable of the contents thereof -- and the same answer for all three. Those answers to those interrogatories were dated November 14th, 1972.

And interrogatories propounded by the defendants to Mr. Hill on July 6th, 1972.

Question No. 9:

"Have you seen any doctors other than those mentioned in Questions 1, 3, and 8 above within the last ten years.

"A. If so, please state the name of each doctor.

"B. If so, please state the dates on which you saw each of said doctors.

"C. If so, please state the nature malady for which you were treated by each of said doctors."

The answer to No. 9 was:

"Yes.

[RT 1939]

"(a) Dr. Collin E. Cooper; May 1967. Dr. James Sheehy; June 1967. Dr. Stuart and Dr. Morris, 108 South Brand, Glendale; December 1967. Dr. John Warburton; July 1970. Dr. Berle Barth; October 1970. Dr. A. J. Nuefeldt; June through December 1971. It is difficult to remember doctors. If I can recall more I will tell my attorney."

Plaintiff rests, your Honor.

THE COURT: All right.

MR. HOBART: Oh, your Honor, with one exception. We have made a couple of lists over here which I would like to have marked and introduced.

I'd like to have the two sheets which have been indicated as early 1967 questionable dispatches, would ask this sheet be marked as plaintiff's next in order, these two sheets be marked as plaintiff's next in order and received into evidence.

THE COURT: We will mark them as 76.

MR. HOBART: I will give these to Mrs. Chappelle.

THE COURT: Yes.

MR. HOBART: I'm not sure there is anything else over here, but let me just examine the board.

I won't introduce these out-of-work computations, your Honor. With what records we have, I think we have it all in the record orally.

* * * * *

[RT 2067]

KURT GILLIE,

called as a witness by the defendants, being first duly sworn was examined and testified as follows:

THE CLERK: Be seated, please, and state your full name, sir.

THE WITNESS: Kurt Gillie, G-i-l-l-i-e.

THE CLERK: C-u-r-t?

THE WITNESS: K-u-r-t.

DIRECT EXAMINATION

BY MR. GEFFNER:

Q Mr. Gillis, what is your occupation?

A I am a carpenter foreman.

Q And how long have you been engaged as a carpenter, either as a foreman or otherwise?

A Since 1939.

Q And are you a member of the United Brotherhood of Carpenters and Joiners?

A Yes.

Q How long have you been a member?

A Since 1951.

Q And what local are you a member of?

A Carpenters Local 25.

Q Have you been a member of Local 25 since 1951?

A No, I came to California in 1959.

Q Is that when you joined Local 25?

A Yes.

Q Prior to that time what local did you belong to?

[RT 2068]

A It was a carpenters local in Canada.

Q You were a member of the Canadian local?

A Yes, sir, but it was the United Brotherhood of Carpenters and Joiners of America.

Q Same brotherhood?

A Yes.

Q Then you moved to California and transferred membership to Local 25?

A That's correct.

Q Now, have you worked continuously as a member of Local 25 since 1967?

A That's correct.

Q Now, you say you have been employed as a foreman. Can you tell us what your responsibilities are as a carpenter foreman?

A As a carpenter foreman, I have to place the men in a respective field, and translate the plans to them, whatever is called for, whether it is class A work, framing, or finishing.

Q Now, were you employed by the Dinwiddie-Simpson Company in 1967?

A Yes, I was.

Q Am I spelling this right, Mr. Gillie (indicating)?

A I think it's double "d", instead of double "t"; D-i-n-w-i-d-d-i-e.

Q Dinwiddie Construction Company?

A Dinwiddie-Simpson, yes, as a joint venture.

Q Can you tell us what building they [RT 2069]*

were constructing* when you were employed?

A This was known as the Crocker-Citizens Building.

Q What was your position on that project?

A I was the carpenter foreman.

Q That was the Crocker Building?

A Crocker-Citizens Building.

Q Who was the general foreman on that project, or was there more than one?

A We have a superintendent, we had an assistant superintendent, we had a general foreman.

Q All right.

Now, the general foreman was who?
Was it Larry Buetner?

A No.

Q What was Larry Buetner's position?

A Also a foreman.

Q Mr. Buetner was a foreman, and
you were a foreman?

A Yes.

Q And do you recall who the superin-
tendent was?

A Superintendent was Charlie Simpson.

Q And do you recall who was the
assistant superintendent?

A Fred Coukos.

THE COURT: What is that, Coukos?

THE WITNESS: Yes.

Q BY MR. GEFFNER: Mr. Buetner
was a foreman, and you were a foreman; is that
right?

A That's correct.

[RT 2070]

Q And Mr. Simpson was superintendent.

How do you spell Coukos?

A I don't recall the exact spelling.

Q Well, let's say C-o-u-k-a-s.
That's the assistant superintendent; right?

A Yes.

Q Now, sometime in -- incidentally,
do you know Mr. Richard Hill?

A Yes.

Q And do you see him here in the
courtroom?

A Yes.

Q Now, sometime in May of 1967 do
you recall having a conversation with Mr. Hill?

A Yes.

Q And can you tell us where that
conversation took place?

A Mr. Hill came to the jobsite, and
we were on the fifth floor, and he asked me
whether I would hire him on the job, or I would
give him a job.

Q Was there anyone else present at this conversation?

A No.

Q Just you and Mr. Hill, okay.

Now, will you tell us your best recollection what you recall Mr. Hill saying to you at that conversation?

A It went like this: "Is there a chance that you can give me a job," or "Can you help me to get on this job?" and I told him that all the hiring was done by the top supervision only, which

[RT 2071]:

in this case was Charlie Simpson or* his assistant, and I told him --

Q His assistant would be Fred Coukos?

A Yes.

-- and I told him to see Charlie or Fred Coukos, either one of those two, who could tell him whether there was a need or a chance for him to get employment.

Q An other conversation that occurred, that you haven't told us about?

A I only mentioned to him that I was not capable of hiring anyone.

Q Did Mr. Hill then leave, at least your presence?

A Yes, he left with saying, "Well, I'll go and see him," or in that respect.

Q Was that the sum total of your conversation with Mr. Hill at that time?

A That's my recollection.

Q Did you, in that conversation, at any time offer to hire him as a carpenter on that project?

A I had no powers to hire anyone. It was only supervision that could make decisions of that nature.

Q Well, I want to know, Mr. Gillie, specifically, in that conversation did you ever tell Mr. Hill that you could hire him, or you would hire him, or offer him a job.

A I could not.

Q Your answer is no?

A My answer is no.

* * * * *

[RT 2084]

JOHN KABAT,

called as a witness by the defendants, being first duly sworn, was examined and testified as follows:

* * * * *

[RT 2085]

DIRECT EXAMINATION
BY MR. GEFFNER:

* * * * *

[RT 2086]

Now, Mr. Kabat, do you recall being dispatched to a job in May of 1968 -- I know it's a long time -- for the Speer Corporation? It was a home for unwed mothers.

A Yes.

Q And do you recall who dispatched you to that job?

A Well, I get -- I was dispatched from the union, Local --

Q Local 25?

A --25. Same with Dick, Dick Hill.

Q You and Mr. Hill went out to a job together?

A Well, we came at the same time over there.

Q Did you leave the hall together, or did you meet him at the job?

A Together we left, because I didn't know where the job place is, and he drove ahead, and I followed him with my car.

Q And do you recall where the job was located?

A The job was located about -- it was north of Los Angeles, close to Pasadena; between Pasadena and Los Angeles.

[RT 2087]

Q When you arrived on the jobsite where there any carpenters working, or did you see any carpenters working?

A About three carpenters work at this time at the job.

Q And was there a foreman?

A Foreman was there.

Q Do you recall the foreman's name?

A Well, I didn't direct to foreman. Mr. Dick Hill, he went to the foreman. He talked to him.

Q Wait a minute.

Do you know his name, Mr. Kabat?

A No, I don't know name of foreman.

Q What kind of job was it, do you remember?

A I don't know exactly, but I know it was one long wall, and this three carpenters that I mentioned before were working on it.

Q Now, did you and Mr. Hill talk to the foreman?

A I didn't talk to foreman, Mr. Dick Hill talked to him.

* * * * *

[RT 2088]

Q Okay. Now, tell us to your best recollection, now, your best memory -- we know you can't give us the exact words -- but what did you hear Mr. Hill say, and what did you hear the foreman say? In your own words, what did you hear them say, would you tell us, Mr. Kabat?

A Yes. Well, I heard everything that Mr. Hill talked to the foreman. The job is --he talked to him, how about job this long, you know, and the foreman said not too long a job, you know. Well, job will not last long.

And Mr. Dick told him that the small job, and it will not last long, so he said, "We shall not take it."

Q Mr. Hill said that?

A Yes.

So he told me, "Let's go back to the hall," you know, so we drove to the hall back.

* * * * *

[RT 2096]

EVERETT TRIMBLE,

called as a witness by the defendants, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION
BY MR. GEFFNER:

* * * * *

Q BY MR. GEFFNER: Mr. Trimble, you said you were then on the Dinwiddie job, which started approximately when, 1967?

A I believe it was '67, yes.

Q And you were steward on that job?

A That's right.

* * * * *

[RT 2108]

FRED HARRY COUKOS,

called as a witness by the defendants, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION
BY MR. GEFFNER:

* * * * *

[RT 2110]

And in your position as superintendent, were you employed by the Dinwiddie-Simpson job regarding the Crocker-Citizens Building?

A Yes, sir. This was a joint venture between William Simpson Construction Company and Dinwiddie, and I was employed as a superintendent -- assistant superintendent.

Q Can you tell us approximately when you started or were assigned to that job project?

A '67 to '68.

Q Do you recall when in '67 you started?

A I believe it was around October.

Q '66 or '67?

A October of '66.

Q And how long were you on that project?

[RT 2111]

A About two and a half years.

Q Now, as assistant superintendent, did you have any responsibility in requesting carpenters to be employed?

A Yes, sir.

Q And in what capacity did you have that responsibility? -- that's not a clear question.

Tell us, what was your responsibility in terms of hiring carpenters?

A When it was necessary to hire more help I would call the union hall and request the amount of people that I needed at the time.

MR. GEFFNER: Your Honor, we are missing exhibit R, so I will pass that question.

THE COURT: What exhibit?

MR. GEFFNER: Exhibit R -- oh, here they are, save me a lot of time.

MR. HOBART: All you had to do is say it, and it would be in your hand, Mr. Geffner.

Q BY MR. GEFFNER: Mr. Coukos, we have defendants' exhibit R here, which are job requests by name from the Dinwiddie Construction Company, William Simpson Construction Company, joint venture, and there's a whole series of requests by name, and your name appears on a large number of them; is that correct, is that your signature?

A Yes, sir.

Q Do you recall the arrangement, if there was one, regarding the method that supervision was to hire carpenters by name under the 25-percent rule?

[RT 2112]

A Mr. Charles Simpson, who was the general superintendent at the time, wanted us to write the requests -- to make out the requests in writing to send to the hall.

Q Would that be the 25-percent group?

A The 25-percent group, yes.

Q What was your understanding as to the 25-percent rule on that job, as well as other jobs?

A Well, we were allowed to hire 25-percent, or request by name carpenters.

Q Under the contract?

A Sir?

Q Under the Collective Bargaining Agreement?

A Yes, sir.

Q Now, Mr. Coukos, in your position as assistant superintendent, did you have the responsibility over all craftsmen, or just carpenters?

A Well, all craftsmen.

Q And that would include approximately how many workmen at any one given time on that project?

A Well, we had as many as two hundred men there at one time.

Q That would be various crafts?

A Yes, sir.

Q And what was the top number of carpenters that you had employed on that job?

A I believe it was somewhere in the seventies.

Q Now, do you know Mr. Everett Trimble?

A Yes, sir.

[RT 2113]

Q And did Mr. Trimble ever work for you?

A Yes, sir.

* * * * *

[RT 2115]

CROSS-EXAMINATION
BY MR. HOBART:

* * * * *

[RT 2122]

Mr. Simpson testified that on that job you had both oral and written requests, and that had been a common occurrence on that Simpson-Dinwiddie job. Do you have a recollection of that, sir?

A Yes.

[RT 2123]

Q Sometimes they would be in writing, sometimes they would be over the telephone

A Well, normally they were in writing. That was the rule that was made, and --

Q I think that is what Mr. Simpson said, that that was normally the case, but that there were exceptions to that rule, telephone requests.

In other words, you'd call, when you'd call into the union, say, the night before, say, "Give us X number of carpenters tomorrow, and make one or two of them so and so and so and so," that that was not an uncommon thing; isn't that true?

A It's true until we reached that 25 percent. After that we would just call the hall and they'd send out the men off their list, or whatever.

Q Right, we're talking about two things. In other words, you could make the requests up until the time the company had requested 25 percent of the people, then after that you couldn't make individual requests any more?

A That's correct, yes, sir.

Q All right. But up to the 25 percent, the fact of the matter is that you made requests on that job of both oral and written nature?

A Yes.

* * * * *

[RT 2124]

REDIRECT EXAMINATION
BY MR. GEFFNER:

Q Mr. Coukos, Mr. Daley testified that he had an agreement with Mr. Simpson that within the 25 percent requests -- not on rehires, or not on transfers -- but on the 25 percent, that the requests would be by name. Does that refresh your recollection in any way of any arrangement on that particular job?

A Yes, sir, that was the ruling that was set up.

573.

Q Is that your recollection?

A Yes, sir.

Q Would you agree with Mr. Daley that's what it was?

A Yes.

* * * * *

[RT 2125]

RECROSS-EXAMINATION
BY MR. HOBART:

Q There were oral requests that were honored on that job, and there were written requests that were honored on that job, irrespective of whatever the agreement had been; isn't that so?

A There may have been a few verbal requests.

* * * * *

EVERETT TRIMBLE,

called as a witness by the defendants, being previously sworn, resumed the stand and testified further as follows:

DIRECT EXAMINATION (Resumed)
BY MR. GEFFNER:

* * * * *

574.

[RT 2130]

Q Now, Mr. Trimble, when you were working on the Dinwiddie-Simpson job around May 1st, 1967, do you recall a conversation involving Mr. Coukos and Mr. Hill?

A Yes, I do.

Q And would you tell us, were you present?

A Yes, I was.

Q Can you tell us the circumstances of how you happened to be present?

A Well, I had came down from the 6th floor, and they had the saw shop down on the ground floor, so I went down there to pick up the saws to take up to the men, and I was starting back up. I stopped to say a word to Fred Coukos about the assignments and jobs.

Q Did you talk to Mr. Coukos frequently in that job?

A Yes, I did.

Q How many times a day would you say you spoke to him?

A Oh, probably four or five times a day.

And as I was going back I stopped to talk

[RT 2131]*

to him, * and Mr. Hill came in about that time, and I introduced him to Fred Coukos, and he --

Q You knew Mr. Hill, of course. He was vice-president at that time?

A Yes.

So he asked Fred Coukos for a request to go to work, and Fred told him he wouldn't give him any, he didn't want him on the job.

Q Do you recall anything else about that conversation?

A That's about all they said there at that time. I went on upstairs.

* * * * *

[RT 2132]

Q At the stewards' meeting did you ever hear any conversation between Mr. Daley and Mr. Hill?

A Oh, yes.

Q And in terms of the two of them, I assume there were a number of men present?

A Yes.

Q But in terms of the conversation between the two of them, can you give us some

[RT 2133]*

of your recollections of? what you heard?

MR. HOBART: Can we have the time this occurred, your Honor?

THE COURT: '65, I think.

MR. GEFFNER: And '66, your Honor.

THE COURT: And '66.

THE WITNESS: Well, they would -- they would have this meeting. Whoever was on the floor, if it was one of the agents or some of the attorneys, or Mr. Hill would jump up and go to to interfering with the speech, and Daley would ask him to sit down, and if he didn't sit down, why, Daley would tell him in a pretty rough way to sit down. That was his nature of talking. He talked that way. He was rough talking.

Q BY MR. GEFFNER: And did Mr. Hill answer back?

A Well, yes. Lots of time he would, but then I don't remember what he would say. He talked so fast that I couldn't keep up with him.

Q Now, did you attend the membership meetings during '67?

A Yes, I did.

Q And '68?

A Yes. Yes, I did.

Q Of course, you were president from June of '68 on, were you not?

A Yes.

Q During the period of '67 when you were not president, up to June of '68 did you

[RT 2134]*

attend any of those meetings* during that time?

A I attended all the meetings.

Q And Mr. Nelson was present, was he not?

A Yes.

Q Do you recall any conversation at the membership meetings between Mr. Hill and Mr. Daley?

A Well, I don't -- yes, I recall the conversations, but then I don't remember --

Q Well, in general terms.

A General terms, yes.

Q Any discussions, or what was it, is what I'm trying to find out.

A Well, really, I don't know what was said, but Hill would interfere if any of them got up on the floor.

Q And Mr. Daley would say what to him, usually?

A Pardon?

Q What would Mr. Daley say to Mr. Hill?

A He would tell him to sit down or he'd throw him out of the building -- put him out of the hall, rather.

Q Is that what he said?

A Yes.

Q Did Mr. Hill keep talking?

A Talking too much, interfering with the men.

Q Now, when you were president, that was in June of '68, was it not?

A Yes.

Q In June of '68 until April of '69 did Mr. Hill attend any of the meetings?

[RT 2135]

A Yes.

Q And in terms of conducting the meetings, would you tell us, what would Mr. Hill say or do, if anything.

A Well, when I was president, yes, he would. When I was first president, why, he didn't say anything for a short time, but then he began to interfere with me and the men that would get up on the floor to make speeches.

He'd interfere with all of us, but I don't recall what was said, only he -- I threatened to fine him one time, but I didn't assess a fine on him.

* * * * *

[RT 2180]

LEO EARL POUNDSTONE, called as a witness by the defendants, being first duly sworn, was examined and testified as follows:

* * * * *

DIRECT EXAMINATION
BY MR. GEFFNER:

Q Mr. Poundstone, what is your occupation?

A I am a construction superintendent.

* * * * *

[RT 2183]

Q And when was the first time you saw or met Mr. Hill, approximately?

A Well, during the middle of the month of January of 1969.

Q Sometime in January or February?

A Yes, sir, one of those two. I'm fairly sure it was in January, but could have been in February.

Q All right. So you say that was in '69?

A Yes, sir.

Q Okay. Let's say January or February; is that fair enough?

A Yes, sir.

Q And that was the Kidde job?

[RT 2184]

A Yes, sir.

Q Now, during that time, Mr. Poundstone, did you spend much of your time during the day at the project?

A All the time from 6:00 o'clock in the morning until 4:00 o'clock in the afternoon.

Q All right.

Now, up to that time had you ever seen or heard or known anything about Mr. Richard Hill?

A No.

Q Would you tell us, did you have a conversation with Mr. Hill at that time?

A I did.

Q And where was this conversation?

A On that property there, the property which we had taken possession of by virtue of a permit from the City of Los Angeles for parking and traffic; on the project.

* * * * *

[RT 2188]

Q Mr. Poundstone, I believe I was asking you where you first saw Mr. Hill.

A That is true.

Q Will you tell us where you first saw him?

A Yes. I was eating breakfast in a restaurant across the corner from the project that I was working on in 1969. I don't recall the name of the restaurant.

Q About what time of the morning was it?

A 6:00 o'clock. I was sitting at the counter, and a man came up, tapped me on the shoulder and said, "When you get through there, I want to see you across the street at the job." When I finished, I went over there.

[RT 2189]

Q Who was the man that said this?

A Mr. Hill -- when I got over to the job I met Mr. Hill.

Q He's the man that tapped you on the shoulder?

A Yes.

When I got over to the job, there was Mr. Hill parked with his car blocking the entrance gates to my project, and he was standing outside of his car, and he said to me, "Leo," he said, "I'm Dick Hill from Local 25, and I came down here to get you straightened out."

He said, "I've been listening to the bullshit stories down at the hall that you've been pulling down here, and I want to get you straightened out on just exactly what's coming off," along those lines.

So I said to him, "Which business agent are you?" and he said, "I'm no God-damned business agent, I'm a member of Local 25, and I'm down here to straighten you out."

So I said to him, "Are you coming down here to go to work?" "I wouldn't work on this God-damned job if I never had a job." So then I informed him that he was parked on my property, being the company representative, and I would give him three minutes to remove himself and his automobile from there, or I would call the police and have him arrested.

To which he says to me, "How does a son of a bitch like you live so long without being shot?" So I turned around to him and said, "Your three minutes are up," and I started to go over to get into my pickup, and he jumped in

[RT 2190]

his car and drove off.

Now, that's the first, the last, and the only time I've ever had anything to do with him.

* * * * *

[RT 2522]

JAMES L. KEEN,

called as a witness by the defendants, being first duly sworn, was examined and testified as follows:

* * * * *

[RT 2523]

DIRECT EXAMINATION
BY MR. GEFFNER:

Q Mr. Keen, what is your occupation?

A Financial secretary, Carpenters' Local 25.

* * * * *

[RT 2542]

Q BY MR. GEFFNER: Yes, concerning yourself with just the '67, '68 period, tell us what you heard.

A Well, Mr. Hill was standing at the

[RT 2543]*

window copying* notes and yelling through the window at Mr. Daley, and naturally, it gets on a person's nerves, and he'd yell back. He'd tell him to get away from the window so he could get the dispatching done.

Q What did you hear Mr. Hill say during those incidents?

A He'd call him drunken bum, and all sorts of things like that.

Q What did you hear Mr. Daley say?

A He'd just tell him, "Get the hell away from the window so I can get my work done."

Q Was that sort of a normal routine, as far as you could observe?

MR. HOBART: Your Honor, I will object to the question as being leading.

THE COURT: Yes, I will sustain the objection.

MR. GEFFNER: All right.

Q How often would you say that type of dialogue would take place?

A Practically every day.

* * * * *

[RT 2630]

JOSEPH ANDREW WILK,

called as a witness by the defendants, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION
BY MR. GEFFNER:

* * * * *

[RT 2635]

Q Now, Mr. Wilk, during the year 1967 -- that's the last year you were in office for the full year -- do you remember seeing Mr. Hill during that year socially?

A I do, very much so.

The same thing happened. We visited, frequently drinking, very much so; drinking and dining together.

* * * * *

[RT 2636]

Q BY MR. GEFFNER: Now, during the years of '66, '67, '68, did you dispatch along

with Mr. Daley?

A Yes, I did.

Q And Mr. Fenwick?

A Yes, I did.

Q How would that work, in terms of

[RT 2637]*

who would handle* the actual job of dispatching?

A Well, any man that was there. First man there, or one of the others were busy on the telephone, taking care of other business, or taking roll call, first man that was in the office took care of that.

Q How about requests from employers?

A Well, requests from employers came in either by letter, by note, or by their business card.

Q And what was the practice in honoring requests by name?

A Well, as far as I was concerned, and the officers was concerned, was by the same method, only they also had to show us a check stub that they worked for the previous employer.

Q What was the purpose of showing you the check stub?

A That they -- to identify themselves that they worked for the previous employer, to get the request, and the request was granted.

Q Did you fill out a referral slip then?

A Yes, sir, I'd fill out a referral slip, and that's how we sent them to work.

Q After you were dispatching in the morning, what would be your duties for the rest of the day?

A We'd go out in the field.

Q Check out --

A Visit various jobs, various contractors that requested us to come out there on the various jobs.

[RT 2638]

Q All right.

During 1967, to your best recollection, did you ever refuse to send out Mr. Hill when his name came up?

A Never.

Q Did his name come up?

A His name came up and he refused to go to work.

Q What were the reasons he would give you?

A He'd give me no reason at all, just refuse to go to work, and he'd walk away, and he'd just -- he said, "You dumb Polack" -- he had a nasty habit that way.

He'd be smoking a cigar, be blowing the smoke in your face through a little, like a port-hole in the window from the dispatching, and was very abusive.

Q Did you ever answer him back?

A No. I asked him to excuse himself. I said, "Please excuse yourself while we take care of the business, then if you want to talk to me, all right."

Q Did you ever hear Mr. Daley and Mr. Hill have any discussions?

A Oh, yes. I heard him pretty good, both of them cussing one another out.

In fact, that was Mr. Daley's way of doing things. He's well known for that, for doing that; But for Mr. Hill, to me, it was very unusual. I didn't think it was the right thing. I told him so.